



**PUBLIC NOTICE
THE ELOY CITY COUNCIL
Meets
MONDAY, DECEMBER 9, 2024
6:00 PM
ELOY CITY COUNCIL CHAMBERS
595 NORTH C STREET
ELOY, ARIZONA 85131
For a
REGULAR MEETING**

AGENDA

- I. Call to Order**
- II. Roll Call**
- III. Moment of Silence**
- IV. Pledge of Allegiance**
- V. Public Appearances**

Those wishing to **ADDRESS THE CITY COUNCIL** may do so by signing in on a form provided by the City Clerk, identifying the topic(s) or agenda item(s). **ACTION** taken as a result of public comment regarding non agenda items will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.
SPEAKERS SHALL BE LIMITED TO THREE (3) MINUTES.

- A. Scheduled
- B. Unscheduled

VI. Reports and Announcements

- A. Council Members' Announcements
- B. Mayor's Announcements
- C. City Manager's Announcements

VII. Consent Agenda

ALL ITEMS LISTED WITH AN ASTERISK(*) ARE CONSIDERED TO BE ROUTINE MATTERS AND WILL BE ENACTED BY ONE MOTION AND ONE ROLL CALL VOTE OF THE COUNCIL. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCIL MEMBER SO REQUESTS, IN WHICH EVENT THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED IN ITS NORMAL SEQUENCE ON THE AGENDA.

- *A. Approval of Minutes - 11/25/2024 (Regular & Organizational Meeting of Council-Elect)
- *B. Adoption of Resolution No. 24-1606 authorizing officers/agents to deposit, transfer, and withdraw Brian Wright

monies with the Local Government Investment Pool (LGIP).

- *C. Adoption of Resolution No. 24-1604 authorizing officers/agents to deposit, transfer, and withdraw monies with First Interstate Bank. Brian Wright
- *D. Adoption of Resolution No. 24-1605 authorizing officers/agents to deposit, transfer, and withdraw monies with First Interstate Bank for the Magistrate Checking Account. Brian Wright
- *E. Adoption of Resolution No. 24-1603 authorizing officers/agents to deposit, transfer, and withdraw monies with Western Alliance Bank. Brian Wright
- *F. Acceptance of the Grant-in-Aid Agreement with the Ak-Chin Indian Community for \$38,650 to assist in Eloy Fire District's purchase of a washer/extractor and drying cabinet equipment for the fire district building. Brian Wright
- *G. Approval of a One-Year Revocable Agreement with Flock Group, Inc., to Install and Maintain Eleven (11) Automated License Plate Reader (ALPR) Cameras, four (4) Multipurpose ALPR/Video Cameras, and Establish a Real-Time Crime Center (RTCC) at the cost of \$60,500.00, with pricing per the City of Tempe Cooperative Contract # T21-119-01. Chief Sergio Banales

VIII. Business: Possible Discussion and/or Action on the Following:

- A. Approval of a Proposal Submitted by Sunland Asphalt and Construction, LLC for an Amount Not to Exceed \$1,200,000 for Mill and Overlay Pavement Preservation Projects on Main Street and Sunshine Boulevard; and Authorizing the Mayor to Execute the Necessary Agreements. Matt Rencher

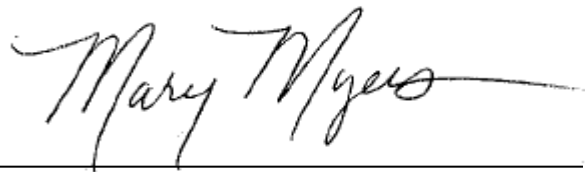
IX. Executive Session

Possible executive session for discussion/consultation for legal advice with the city attorney and/or city staff concerning any of the agenda items, pursuant to A.R.S. §38-431.03 (A) (3) and (4).

X. Adjournment

POSTED BY 5:00 P.M. ON THURSDAY, DECEMBER 5, 2024, AT ELOY CITY HALL, ELOY POST OFFICE, AND CITY WEBSITE: www.elayaz.gov

THE FACILITY WILL BE OPEN TO THE PUBLIC 30 MINUTES PRIOR TO THE START OF THE MEETING AND SEATING WILL BE AVAILABLE FOR "REASONABLY ANTICIPATED ATTENDANCE."

A handwritten signature in cursive script that reads "Mary Myers". The signature is written in black ink and is positioned above a solid horizontal line.

Mary Myers, MMC, CPM
City Clerk

INDIVIDUALS WITH SPECIAL ACCESSIBILITY NEEDS MAY CONTACT LORENA LaSALDE-RIOS, ADA COORDINATOR FOR THE CITY OF ELOY AT 520-466-9201 OR 520-466-7455 (TDD). IF POSSIBLE, SUCH REQUESTS SHOULD BE MADE 72 HOURS IN ADVANCE. ONE OR MORE MEMBERS OF THE COUNCIL AND/OR STAFF MAY PARTICIPATE BY TELEPHONIC OR VIDEO MEANS.

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL AND
ORGANIZATIONAL MEETING OF THE COUNCIL-ELECT
CITY OF ELOY
595 NORTH C STREET
MONDAY, NOVEMBER 25, 2024
6:00 P.M.**

Staff Present: David Malewitz-City Manager; Mackenzie Letcher-Assistant City Manager; Stephen R. Cooper-City Attorney, Mary Myers-City Clerk, Paul Anchondo-Community Services Director; Dan Symer-Community Development Director, Brian Wright-Finance Director, Matt Rencher-Public Works Director/City Engineer, Sylvia Payne-HR Director, Sergio Banales-Police Chief; Roger Valdez-City Magistrate

I. CALL TO ORDER

Mayor Micah Powell called the meeting to order at approximately 6:05 p.m.

II. ROLL CALL

Council Members Present: Mayor Micah Powell, Councilmember Andrew Sutton, Vice Mayor Sara Curtis, Councilmember Sylvia G. Rodriguez, Councilmember Dan Snyder, Councilmember Jose Garcia; Councilmember Michelle McKinley-Tarango

Council Members Absent: None

III. INVOCATION

Reverend Donna VandeKieft gave tonight's invocation.

IV. PLEDGE OF ALLEGIANCE

Mayor Powell led the Council and the public in the Pledge of Allegiance.

V. PUBLIC APPEARANCES

1. Irene Higgs, Executive Director of the Sun Corridor Metropolitan Planning Organization (SCMPO), presented Mayor Powell with a “Resolution of Appreciation” for his dedicated service to the organization for four years.
2. Rodney Crook – 4625 W. Hotts Road, came forward to expressed concern about the city allegedly stealing several acres of his property in September, 2023, and giving it to his neighbor. He claimed to have been harassed on a regular basis the past nine months by the city for city code violations. Mr. Crook said the violations were investigated and closed, but now, is being charged with the same crimes as his wife for the same material in the same yard, but individually. Mr. Crook wanted to know how the city can steal someone’s property and give it to someone else.

VI. REPORTS AND ANNOUNCEMENTS

A. Council Member Announcements

1. Councilmember Snyder provided a brief report on an energy future conference he attended last week with Mr. Malewitz on solar.
2. Councilmember Sutton conveyed that he participated in the Operation Eloy clean-up, November 16th. He thanked city staff members who participated in the clean-up and everyone who volunteered their time, equipment, and materials. Councilmember Sutton said volunteers picked up almost five tons of trash.
3. Vice Mayor Curtis announced that Skydive Arizona will have 110 professional athletes from 20 countries participating to build a skydiving world record while jumping out of five planes. The event starts on Tuesday, November 26th at 9:00 a.m. She invited the public to come out to watch the event.

B. Mayor Announcements

Mayor Powell recognized former Mayor Joel Belloc in the audience.

C. City Manager Announcements

Mr. Malewitz made the following announcements:

- Asked members of the public to help support the police department’s efforts to provide Christmas gifts for children in the city. Mr. Malewitz said a letter was sent out to residents a while back asking for donations. He said this is a great program that has been put on by the police department for years.
- The city will be celebrating its 75th anniversary of incorporation, December 14th. The big event will start at 2:00 p.m. at Main Street park. There will be tons of activities and rides for kids, food vendors, and live bands, followed by the annual electric light parade, fireworks and drone show.

- City offices will be closed November 28th and 29th in observance of the Thanksgiving holiday.

VII. CONSENT AGENDA

- A. Approval of Minutes: 11/12/2024 (regular)
- B. ~~Approval of a Letter of Intent Agreement ("Agreement") between the City of Eloy and Veregy Energy Services, LLC., dba Veregy, LLC. for Engineering Services, Construction, and Construction Administration for Water and Wastewater Capital Projects; and Authorizing the Mayor to Sign the Necessary Documents. (Removed for separate discussion)~~

Mayor Powell requested item B removed from the Consent Agenda.

A motion was made by Councilmember Garcia and seconded by Councilmember Sutton to remove item VII-B from the Consent Agenda, and approve the remaining Consent Agenda item as presented, passed unanimously by roll call vote (7-0).

B. APPROVAL OF A LETTER OF INTENT AGREEMENT ("AGREEMENT") BETWEEN THE CITY OF ELOY AND VEREGY ENERGY SERVICES, LLC., DBA VEREGY, LLC. FOR ENGINEERING SERVICES, CONSTRUCTION, AND CONSTRUCTION ADMINISTRATION FOR WATER AND WASTEWATER CAPITAL PROJECTS; AND AUTHORIZING THE MAYOR TO SIGN THE NECESSARY DOCUMENTS.

Staff Cover Sheet Report: *Staff recommends that the City Council approve the agreement with Veregy to provide engineering services, construction, and construction administration for the Water and Wastewater Capital Projects identified in the agreement for the Public Works Department's water and wastewater divisions. These projects will be funded through the American Rescue Plan (ARP).*

The American Rescue Plan (ARP), signed into law on March 11, 2021, was a \$1.9 trillion stimulus package to address the economic and public health impacts of the COVID-19 pandemic. It provided state and local government funding to support economic recovery, public health efforts, and budget shortfalls. Local governments received direct allocations based on population to address immediate and long-term needs, including public health, safety, and infrastructure projects like water and sewer upgrades, broadband expansion, and community facilities.

The City of Eloy has identified various implementation projects utilizing the American Rescue Plan (ARP) funding. The City Council reviewed and approved this proposed project list and other projects in late 2021. However, the estimated costs for

these projects significantly exceed the available ARP funding. Additionally, since the initial project list was approved, new priority projects with more urgent needs have been identified. Consequently, Public Works staff recommends allocating the remaining ARP funds to the following high-priority projects:

- *Belt Press building, connection design, sludge holding tank, polymer feed system at WWTP*
- *Total estimated cost: \$1.5M*
- *Step Screens at wastewater treatment plant headworks*
- *Total estimated cost: \$500,000*
- *Sewer Trunk Main Extension within City Limits on Eleven Mile Corner Road and from Eleven Mile Corner Road to WWTP*
- *Total estimated cost: \$720,000*
- *Rehab Water Reservoir at Pump Station #2*
- *Total estimated cost: \$800,000*
- *Repair Well Casing at Well #3*
- *Total estimated cost: \$900,000*

In October 2022, the City of Eloy secured funding from the Water Infrastructure Financing Authority (WIFA) to support critical water and wastewater construction projects. These projects included the installation of five (5) new turbo blowers and aeration piping at the wastewater treatment facilities, solar photovoltaic panels at both the wastewater treatment facilities and drinking water wells, and a sand separator at one of the well sites.

To execute these projects efficiently, the City contracted Veregy to provide design and construction services. Veregy was selected based on the provisions of Arizona Revised Statutes, Title 34, which allows for the direct selection of certain professional services, including engineering, through an executed IGPA contract #22-07P-08 already in place with the State of Arizona.

Acting as an extension of the City's staff, Veregy successfully managed and completed the projects on schedule, ensuring compliance with federal and WIFA standards. Recognizing Veregy's expertise and performance, City staff approached the firm to assist with the major capital projects identified above. This collaboration aims to ensure timely project completion despite staffing constraints due to other ongoing initiatives.

If the Council approves the Letter of Intent with Veregy, City staff will collaborate with Veregy to define the Scope of Work for each project listed herein and funded through the American Rescue Plan (ARP). Additionally, staff will work with Veregy to develop a contract outlining these projects' engineering, administration, and

construction management. Proposed contracts for the services of each project will be presented to the Council for review and approval.

FISCAL IMPACT: *Cost estimates for each project will be developed individually, including a detailed scope of services and corresponding fee estimates. Once the project scoping and fee estimates are finalized, comprehensive contracts with pricing will be presented to the City Council for review and approval. Additionally, both parties agree that the total fee for engineering and design services, including the procurement and delivery of step screens at the wastewater treatment plant—used for separating materials as wastewater enters the treatment process—will not exceed \$475,000. Funding for these projects is allocated within the water and sewer funds.*

Mr. Rencher gave a brief overview of the Letter of Intent with Veregy for engineering services, construction, and construction administration for the water and wastewater divisions, and projects as stated in the staff report. Mr. Rencher said if Council approves the Letter of Intent, staff will negotiate contracts with Veregy and bring to Council for approvals.

Mayor Powell said he requested this item removed from the Consent Agenda, to personally thank Ed Ferrell and Dick Williams for all of their hard work helping the city with its infrastructure program and saving the city a substantial amount of money.

Mr. Ferrell and Mr. Williams appreciated the city staff for working with them on the projects. They said for projects such as this to be successful, it takes a two-way street.

Mr. Williams thanked Mayor Powell for his service to the community, and wished the new councilmembers the best as they lead Eloy.

There being no further discussion, Mayor Powell called for a motion.

A motion was made by Councilmember Sutton and seconded by Councilmember G. Rodriguez to approve a Letter of Intent Agreement with Veregy Energy Services LLC, for engineering services, construction, and construction administration for water and wastewater capital projects, and authorizing the mayor to sign the necessary documents, passed unanimously by roll call vote (7-0).

VIII. PRESENTATION OF PLAQUES TO OUTGOING COUNCILMEMBER SYLVIA GUANAJUANTO RODRIGUEZ AND MAYOR MICAH POWELL

Mayor Powell presented Councilmember G. Rodriguez with a plaque and gift from the city, honoring her for four years of public service to the community of Eloy.

Councilmember Sutton presented Mayor Powell with a plaque and gift from the city honoring him for 12 years of public service to the community of Eloy.

IX. MAYOR'S COMMENTS

At this time, each member of the Council was given the opportunity to give parting comments to Mayor Powell and Councilmember G. Rodriguez.

Councilmember G. Rodriguez conveyed that her four years on the Council has been filled with gratitude and warmth. She thanked the public, her family and friends for their continued support. Councilmember G. Rodriguez said she is also grateful for the bond she has formed with her colleagues and city staff. She encouraged the new council to continue with the momentum of carrying the city forward, and to ensure the community is engaged and involved in its growth. Councilmember G. Rodriguez wished the new Council all the best.

Mayor Powell also thanked his family, friends and residents for allowing him to serve as mayor for four years and as member of the Council for eight years. He said it has been an honor to represent Eloy over the past 12 years. Serving as mayor has been a dream for him and a blessing. Mayor Powell thanked the city staff, Mr. Malewitz and Mr. Letcher for their leadership and commitment to the city. He sincerely thanked the Council, whom he sees as family for all their support. Mayor Powell said he hope he made the Council, city staff and the community proud as mayor.

Mayor Powell told Councilmember Sutton that he has the utmost faith and trust in him that he will do a great job as mayor. He reminded Councilmember Sutton that he has his own vision and style on where he and Council want to take the city. He wished him all the success as incoming mayor.

X. SINE DIE

Mayor Powell announced Sine Die at approximately 6:52 p.m.

ORGANIZATIONAL MEETING OF THE COUNCIL-ELECT

XI. CALL TO ORDER

Councilmember Tarango called the meeting to order at approximately 6:54 p.m.

XII. ADMINISTRATION OF THE LOYALTY OF OATH TO MAYOR-ELECT ANDREW SUTTON

The city clerk administered the Loyalty Oath of Office to Andrew Sutton.

It was at this time that Mayor Sutton assumed his seat on the dais as mayor to chair the rest of tonight's meeting.

XIII. ADMINISTRATION OF THE LOYALTY OATH OF OFFICE TO COUNCIL-ELECTS SARA CURTIS, JOSEPHINE GALINDO, DANIEL SNYDER, MICHAEL VODRAZKA

The city clerk administered the Loyalty Oath of Office to Sara Curtis, Josephine Galindo, Daniel Snyder and Michael Vodrazka.

The Councilmembers assumed their respective seats at the dais.

XIV. BUSINESS

In Accordance with Section 2-6 (D) of the Eloy City Code

A. APPOINTMENT OF THE CITY CLERK – MARY MYERS

Mayor Sutton announced that Mrs. Myers will be retiring soon. He called for a motion to reappoint Mrs. Myers to January 3, 2025.

A motion was made by Councilmember Garcia, seconded by Councilmember Tarango, to reappoint Mary Myers as city clerk to January 3, 2025, passed unanimously by roll call vote (7-0).

B. APPOINTMENT OF THE CITY MANAGER – DAVID MALEWITZ

A motion was made by Councilmember Garcia, seconded by Councilmember Tarango to reappoint David Malewitz as city manager, passed unanimously by roll call vote (7-0).

C. APPOINTMENT OF CITY ATTORNEY – LAW FIRM OF COOPER AND RUETER, LLP

A motion was made by Vice Mayor Curtis, seconded by Councilmember Garcia to reappoint Stephen R. Cooper, from Cooper and Reuter, L.L.P. as city attorney, passed unanimously by roll call vote (7-0).

In Accordance with Section 2-11.2 of the Eloy City Code

D. SELECTION OF A COUNCILMEMBER TO SERVE AS VICE MAYOR FOR A PERIOD OF ONE (1) YEAE, EFFECTIVE DECEMBER 1, 2024.

Mayor Sutton thanked Vice Mayor Curtis for her tenure as vice mayor for the past year. It was at this time Mayor Sutton opened the floor for nominations for vice mayor.

Councilmember Snyder pointed out that according to city code, a councilmember can serve one term as vice mayor during his/her term. With five of the seven councilmember starting new terms, he said everyone on the Council would be eligible to serve as vice mayor.

Mayor Sutton thanked Councilmember Snyder for the clarification. It was at this time that Mayor Sutton called for nominations for vice mayor.

Vice Mayor Curtis nominated Councilmember Tarango to serve as vice mayor.

There being no further nominations, Mayor Sutton called for a motion.

A motion was made by Vice Mayor Curtis and seconded by Councilmember Garcia to appoint Councilmember Tarango to serve as vice mayor for one-year, effective December 1, 2024, passed unanimously by roll call vote (7-0).

XV. MAYOR'S COMMENTS

Mayor Sutton took this time to thank his friends, wife, and family for their support and being here tonight. He announced that he would continue to work as a volunteer for the police department, and look forward to working with each department director in the months to come. Mayor Sutton told the Council that he is humbled to stand with each of them, and that they all bring a unique set of skills and life experiences to the group. He said he does not want any member of the Council to feel inhibited about expressing his or her opinion, and encouraged the free exchange of ideas, knowing that they together will make a difference. Mayor Sutton assured the residents that every decision he makes will be in the best interest of the community and will work tirelessly on their behalf.

It was at this time that Mayor Sutton asked former mayor, Micah Powell to come forward as the city clerk read a proclamation declaring November 26, 2024, as "Micah Powell Day" in Eloy.

XVI. ADJOURNMENT

Mayor Sutton wished everyone a wonderful, safe Thanksgiving holiday.

There being no further business, Mayor Sutton adjourned the meeting at approximately 7:18 p.m.

Andrew Sutton, Mayor

ATTEST:

Mary Myers, City Clerk

CITY OF ELOY
REQUEST FOR COUNCIL ACTION

Agenda Item: **VII.B.**

Date: **12/9/2024**

Date submitted:
11/27/2024

Action: Formal

Subject: Adoption of Resolution No. 24-1606 authorizing officers/agents to deposit, transfer, and withdraw monies with the Local Government Investment Pool (LGIP).

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Brian Wright, Finance Director

RECOMMENDATION:

Staff recommends the adoption of Resolution No. 24-1606 authorizing officers/agents to deposit, transfer, and withdraw monies with the Local Government Investment Pool (LGIP).

DISCUSSION:

Due to the change of the Mayor and Vice Mayor, the City must amend the authorized signer cards for all accounts with the Local Government Investment Pool (LGIP). The authorized officers/agents can conduct deposits, transfers, and withdrawals with LGIP. The authorized officers/agents will be the Mayor, Vice Mayor, City Manager, Assistant City Manager, and Finance Director.

FISCAL IMPACT:

No financial impact

Approved as to Form:



Stephen R. Cooper, City Attorney

RESOLUTION NO: 24-1606

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ELOY, ARIZONA
AUTHORIZING OFFICERS/AGENTS TO DEPOSIT, TRANSFER AND WITHDRAW
MONIES IN THE LOCAL GOVERNMENT INVESTMENT POOL.

WHEREAS, the City of Eloy has resolved to participate in the Local Government Investment
Pool;

NOW, THEREFORE LET IT BE RESOLVED that the following officers/agents be authorized
to order the deposit, transfer, and withdrawal of monies in the Local Government Investment
Pool.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Andrew Sutton	Mayor	_____
Michelle McKinley-Tarango	Vice Mayor	_____
David Malewitz	City Manager	_____
Mackenzie Letcher	Assistant City Manager	_____
Brian Wright	Finance Director	_____

PASSED AND ADOPTED by the Mayor and City Council of the City of Eloy,
Arizona, this 9th day of December 2024.

Andrew Sutton, Mayor

ATTEST:

APPROVED AS FORM:

Mary Myers, City Clerk

Stephen R. Cooper, City Attorney

CITY OF ELOY
REQUEST FOR COUNCIL ACTION

Agenda Item: **VII.C.**

Date: **12/9/2024**

Date submitted:
11/27/2024

Action: Resolution

Subject: Adoption of Resolution No. 24-1604 authorizing officers/agents to deposit, transfer, and withdraw monies with First Interstate Bank.

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Brian Wright, Finance Director

RECOMMENDATION:

Staff recommends the adoption of Resolution No. 24-1604 authorizing officers/agents to deposit, transfer, and withdraw monies with First Interstate Bank.

DISCUSSION:

Due to the change of the Mayor and Vice Mayor, the City must amend the authorized signer cards for the City of Eloy checking and savings accounts with First Interstate Bank. The authorized officers/agents can conduct deposits, transfers, and withdrawals with First Interstate Bank. The authorized officers/agents will be the Mayor, Vice Mayor, City Manager, Assistant City Manager, and Finance Director.

FISCAL IMPACT:

No financial impact

Approved as to Form:



Stephen R. Cooper, City Attorney

RESOLUTION NO. 24-1604

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ELOY, ARIZONA
AUTHORIZING OFFICERS/AGENTS TO DEPOSIT, TRANSFER AND WITHDRAW
MONIES WITH FIRST INTERSTATE BANK.

WHEREAS, the City of Eloy has resolved to participate with First Interstate Bank;

NOW, THEREFORE LET IT BE RESOLVED that the following officers/agents be
authorized to order the deposit, transfer, and withdrawal of monies with First Interstate
Bank.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Andrew Sutton	Mayor	_____
Michelle McKinley-Tarango	Vice Mayor	_____
David Malewitz	City Manager	_____
Mackenzie Letcher	Assistant City Manager	_____
Brian Wright	Finance Director	_____

PASSED AND ADOPTED by the Mayor and City Council of the City of Eloy,
Arizona, this 9th day of December 2024.

Andrew Sutton, Mayor

ATTEST:

APPROVED AS FORM:

Mary Myers, City Clerk

Stephen R. Cooper, City Attorney

CITY OF ELOY
REQUEST FOR COUNCIL ACTION

Agenda Item: **VII.D.**

Date: **12/9/2024**

Date submitted:
11/27/2024

Action: Resolution

Subject: Adoption of Resolution No. 24-1605 authorizing officers/agents to deposit, transfer, and withdraw monies with First Interstate Bank for the Magistrate Checking Account.

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Brian Wright, Finance Director

RECOMMENDATION:

Staff recommends adoption of Resolution No. 24-1605 authorizing officers/agents to deposit, transfer, and withdraw monies with First Interstate Bank for the Magistrate Checking Account.

DISCUSSION:

Due to the change of the Mayor, the City must amend the authorized signer card for the Magistrate Checking Account with First Interstate Bank. The authorized officers/agents can conduct deposits, transfers, and withdrawals with First Interstate Bank. The authorized officers/agents will be the Mayor, City Magistrate, City Manager, Assistant City Manager, and Finance Director.

FISCAL IMPACT:

No financial impact

Approved as to Form:



Stephen R. Cooper, City Attorney

RESOLUTION NO. 24-1605

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ELOY, ARIZONA
AUTHORIZING OFFICERS/AGENTS TO DEPOSIT, TRANSFER AND WITHDRAW
MONIES WITH FIRST INTERSTATE BANK FOR THE MAGISTRATE CHECKING
ACCOUNT.

WHEREAS, the City of Eloy has resolved to participate with First Interstate Bank;

NOW, THEREFORE LET IT BE RESOLVED that the following officers/agents be
authorized to order the deposit, transfer, and withdrawal of monies with First Interstate
Bank.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Andrew Sutton	Mayor	_____
Roger Valdez	City Magistrate	_____
David Malewitz	City Manager	_____
Makenzie Letcher	Assistant City Manager	_____
Brian Wright	Finance Director	_____

PASSED AND ADOPTED by the Mayor and City Council of the City of Eloy,
Arizona, this 9th day of December 2024.

Andrew Sutton, Mayor

ATTEST:

APPROVED AS FORM:

Mary Myers, City Clerk

Stephen R. Cooper, City Attorney

CITY OF ELOY
REQUEST FOR COUNCIL ACTION

Agenda Item: **VII.E.**

Date: **12/9/2024**

Date submitted:
11/27/2024

Action: Resolution

Subject: Adoption of Resolution No. 24-1603 authorizing officers/agents to deposit, transfer, and withdraw monies with Western Alliance Bank.

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Brian Wright, Finance Director

RECOMMENDATION:

Staff recommends adopting Resolution No. 24-1603 authorizing officers/agents to deposit, transfer, and withdraw monies with Western Alliance Bank.

DISCUSSION:

Due to the change of the Mayor and Vice Mayor, the City must amend the authorized signer cards for the City of Eloy savings account with Western Alliance Bank. The authorized officers/agents can conduct deposits, transfers, and withdrawals with Western Alliance Bank. The authorized officers/agents will be the Mayor, Vice Mayor, City Manager, Assistant City Manager, and Finance Director.

FISCAL IMPACT:

No financial impact

Approved as to Form:



Stephen R. Cooper, City Attorney

RESOLUTION NO: 24-1603

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ELOY, ARIZONA
AUTHORIZING OFFICERS/AGENTS TO DEPOSIT, TRANSFER AND WITHDRAW
MONIES WITH WESTERN ALLIANCE BANK.

WHEREAS, the City of Eloy has resolved to participate with Western Alliance Bank;

NOW, THEREFORE LET IT BE RESOLVED that the following officers/agents be
authorized to order the deposit, transfer, and withdrawal of monies with Western
Alliance Bank.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Andrew Sutton	Mayor	_____
Michelle McKinley-Tarango	Vice Mayor	_____
David Malewitz	City Manager	_____
Mackenzie Letcher	Assistant City Manager	_____
Brian M. Wright	Finance Director	_____

PASSED AND ADOPTED by the Mayor and City Council of the City of Eloy,
Arizona, this 9th day of December 2024.

Andrew Sutton, Mayor

ATTEST:

APPROVED AS FORM:

Mary Myers, City Clerk

Stephen R. Cooper, City Attorney

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: **VII.F.**

Date: **12/9/2024**

Date submitted:
11/27/2024

Action: Formal

Subject: Acceptance of the Grant-in-Aid Agreement with the Ak-Chin Indian Community for \$38,650 to assist in Eloy Fire District's purchase of a washer/extractor and drying cabinet equipment for the fire district building.

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Brian Wright, Finance Director

RECOMMENDATION:

Staff recommends the City Council accept the Grant-in-Aid Agreement with the Ak-Chin Indian Community for \$38,650 to assist in Eloy Fire District's purchase of washer/extractor and drying cabinet equipment for the fire district building.

DISCUSSION:

At the July 8, 2024, City Council meeting, Resolution 24-1582 was approved to authorize the submission of a grant application on behalf of the Eloy Fire District. The grant requested a washing machine and two firefighter drying cabinets through the Ak-Chin Indian Community Grant Program. On November 24, 2024, the City of Eloy was informed that the Eloy Fire District had been awarded \$38,650 through the Ak-Chin Indian Community's 12% Grant Program. This funding will support the purchase of specialized washer and dryer equipment critical for reducing contamination risks and limiting exposure to harmful substances, thereby enhancing the health and safety of firefighters and the community.

As the designated fiscal agent for the grant, the City of Eloy will manage the funds. The Eloy Fire District will handle the procurement of the washing machine and drying cabinets and will submit invoices to the City for reimbursement. To formalize this arrangement, the City has received a Grant-in-Aid Agreement from the Ak-Chin Indian Community.

It is recommended that the City Council approve this request to facilitate the Fire District's efforts in protecting public health and safety while ensuring grant funds' effective management and compliance.

FISCAL IMPACT:

The City will act as the fiscal agent and will reimburse the Eloy Fire District for the purchase of washer and dryer equipment. The \$38,650 will be recorded and tracked in the Grants Fund. The Grants Fund has the funding capacity to manage this grant.

Approved as to Form:

A handwritten signature in blue ink, appearing to read "Stephen R. Cooper", is written over a solid black horizontal line.

Stephen R. Cooper, City Attorney

**Fiscal Agent/Grant Agreement
Among
Ak-Chin Indian Community
and
City of Eloy
and
Eloy Fire District**

This Fiscal Agent / Grant Agreement ("Agreement") is entered into by and among the Ak-Chin Indian Community ("Community"), a federally recognized Indian tribe having its principal place of business at 42507 W. Peters and Nall Road, Maricopa, Arizona 85138, City of Eloy ("Municipality"), a city incorporated under the laws of the State of Arizona having its principal place of business at 595 N. C Street, Suite 103, Eloy, Arizona 85131, and (and for the benefit of) Eloy Fire District ("Grantee"), a non-profit and special taxing district established under the laws of the State of Arizona having its principal place of business at 4010 N Toltec Rd., Eloy, Arizona 85131.

RECITALS

WHEREAS, pursuant to Article IV, Section (b) of the Constitution of the Ak-Chin Indian Community, the Community Council is authorized to "negotiate and enter into contracts with federal, state, local and tribal governments, and with individuals, associations, corporations, enterprises, or organizations"; and

WHEREAS, pursuant to the authorities granted to counties incorporated pursuant to Arizona Revised Statutes §11-201, the Municipality is authorized to enter into contracts, such as this Agreement, and accept grant funding on behalf of the Grantee; and

WHEREAS, the Grantee is a special taxing district established under the laws of the State of Arizona that can enter into agreements, such as this Agreement, and accept grant funding thereunder; and

WHEREAS, pursuant to Section 12 of the Tribal/State Gaming Compact between the Community and the State of Arizona ("Compact"), in exchange for substantial exclusivity covenants by the State, the Community agreed to contribute a portion of its annual gaming revenues for regulatory costs and other public benefits; and

WHEREAS, pursuant to Compact Section 12(d), instead of making a deposit to the State, the Community may award up to 12% of its annual contribution ("12% Contribution") directly to cities, towns, or counties of the Community's choosing, for services that benefit the general public; and

WHEREAS, non-profit organizations, which provide a service for the general public, may also benefit from 12% Contribution funds provided that a city, town, or county will (1) accept the funding on behalf of the non-profit organization's behalf and (2) provide that funding to the non-profit, thereby acting in the capacity as a fiscal agent for the non-profit; and

WHEREAS, the Grantee is a non-profit organization and has made arrangements with the Municipality whereby the Municipality has agreed to accept a grant on behalf of the Grantee and act as a fiscal agent so that the Grantee may receive a 12% Contribution; and

WHEREAS, the Grantee submitted an application ("Application") to the Community for a grant from the 12% Contribution ("Grant") which, among other things, included assurances that the Municipality would work with the Grantee for the purpose of obtaining the Grant funding; and

WHEREAS, the Community desires to award a 12% Contribution Grant to the Grantee for the exclusive purpose of supporting select expenditures and tasks of the project proposed in the Application ("Project"), which the Grantee wishes to accept.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Community hereby agrees to make and the Grantee agrees to accept, with the Municipality acting as the fiscal agent, the Grant, subject to the following terms and conditions:

ARTICLE I - GENERAL PROVISIONS

1.1 Contents of Agreement. The agreement between the parties will consist of this Agreement and the Grantee's Application ("Application," as defined further in Section 1.2), which (a) was signed by the Grantee on July 8, 2024 (and which was signed by the Municipality on July 8, 2024), and (b) seeks funding for the Project ("Project" is defined below in Section 1.2), that the Grantee submitted to the Community for consideration in awarding this Grant and which is attached hereto and incorporated herein by this reference as Attachment "A."

1.2 General Definitions. Unless otherwise provided herein, when used in this Agreement:

- (a) "Application" means the application submitted by the Grantee, which is attached hereto and incorporated herein as Attachment "A" and which includes the following: (1) the Ak-Chin Indian Community Grant Cover Sheet, (2) the narrative submitted by the Grantee, (3) City of Eloy Resolution No. 24-1582, dated July 8, 2024, showing that the Municipality has agreed to accept funding on behalf of the Grantee, (4) any and all attachments to the Application (including, but not limited to, proof of tax-exempt status), and (5) any and all other documents submitted to the

Community by the Grantee or the Municipality related to the Grantee's Application and submitted in consideration for receiving a Grant.

- (b) "Fiscal agent" means the Municipality, under an agency relationship, which has agreed, and is authorized by the Grantee, to conduct only the following transactions: (1) accepting the Community's 12% Contribution Grant funding on behalf of Grantee and (2) promptly disbursing the Community's 12% Contribution Grant funding to Grantee. Municipality shall make every effort to disburse the funding to the Grantee within thirty (30) days from the date on which the Municipality receives the Grant funding from the Community.
- (c) "Grant" means funding awarded by the Community as a part of the Community's 12% Contribution.
- (d) "Project" means the "Eloy Fire Cancer and Illness Reduction Program" program or project proposed in and described by the Grantee in its Application.

ARTICLE II - TERM

2.1 The term of this Agreement ("Term") will commence upon the effective date ("Effective Date") which shall be the later of either 1) the date this Agreement is fully executed by all parties or 2) January 1, 2025.

2.2 Unless otherwise terminated in accordance with the Article IX below or extended upon the approval of the Community, which such approval may be given in the form of a Community resolution, without requiring further written amendment of this Agreement, the Term of this Agreement will expire on occurrence of the first of either: (a) one (1) calendar year from the Effective Date; or (b) the date upon which (i) the Project proposed in the Application (which is more fully described in Article III of this Agreement) is completed and (ii) the Community receives the Grantee's final report, as described more fully in Article X below.

ARTICLE III - SCOPE

The Grantee has overall responsibility for managing the grant funding provided by the Community for the benefit of the Project in accordance with the terms and conditions set forth in this Agreement including all attachments hereto. Further, the Grantee has overall responsibility for the timely completion of the Project proposed in the Application in accordance with the terms and conditions set forth in this Agreement. The Grantee agrees and shall use the Grant exclusively for the Project as detailed in the Application unless otherwise approved by the Community, which such approval may be given in the form of a Community resolution, without requiring further written amendment of this Agreement. Beyond acting as a fiscal agent and accepting Grant funding on behalf of the Grantee, the Municipality assumes no responsibility for participating in the Project,

supporting the Grantee, or ensuring that the Grantee fulfills all obligations under this Agreement.

ARTICLE IV - AMOUNT AND AUTHORIZED USES OF GRANT FUNDS

4.1 In consideration of the various obligations undertaken by the Grantee pursuant to this Agreement, as represented by the Grantee in the Application proposing the Project, the Community agrees, subject to the terms and conditions set forth herein, to provide the Grantee with a Grant in the amount of THIRTY-EIGHT THOUSAND SIX HUNDRED FIFTY DOLLARS (\$38,650.00), which is one-time funding, the funding for which shall be accepted by the Municipality on behalf of the Grantee.

4.2 The Grantee will use the Grant exclusively for the Project represented in the Application, EXCEPT salaries and wages, but which may include costs attributable to and arising from providing those services and activities that are part of the Project. The Grantee bears the responsibility for monitoring and ensuring that the funding is used for only those purposes, services, and activities included in Attachment A.

4.3 The Grant made under this Agreement has been awarded in reliance upon the Grantee's proposal in the Application, including certain representations made by the Grantee regarding the Grantee's arrangement with the Municipality to act as Grantee's fiscal agent regarding Grant fund acceptance. Any material change in the term or scope of the Project must first be approved by the Municipality in writing prior to submitting such request to the Community; then, such a request must be presented to the Community for written approval of the Community, which may be given in the form of a Community Resolution without requiring further written amendment of this Agreement.

4.4 The Grantee must notify the Community if the relationship between the Grantee and the Municipality changes in such a manner that the Municipality is no longer willing to collaborate with the Grantee and act as a fiscal agent for the Grantee.

4.5 The Community reserves the right to terminate this Agreement, pursuant to Article IX, if either the Grantee or the Municipality fails to fulfill its respective obligations under this Agreement or if the Project changes in a material way.

4.6 Title to any property, both real and personal, purchased with this Grant shall be taken in the name of the Grantee; provided that, if the Grantee fails to fulfill its obligations under this Agreement during the Term of the Agreement, the property shall be returned to the Community for contribution to another eligible recipient. The Municipality may choose to act, but is not required to so act, as a purchasing agent for the Grantee; provided that any property purchased with Grant funding shall become the property of the Grantee, subject to the limitations provided in this Article IV, Section 4.6. At the conclusion of the Term, the Community will not retain any rights or interests in any property purchased with this Grant.

4.7 Unless otherwise stipulated in writing, this Grant is made with the understanding that the Community has no obligation to provide the Grantee with any other funding or support except the amount granted in Article IV, Section 4.1 herein.

ARTICLE V - DISBURSEMENT OF GRANT

5.1 Upon the Community's receipt of a fully executed copy of this Agreement and a copy of the Municipality's W-9, the Community will arrange to issue to the Municipality Grant funding in the amount set forth in Article IV, Section 4.1. Unless otherwise requested by the Municipality, the Grant funding will be sent via FedEx or other express mail service to the Municipality at the address provided in Article XII, Section 12.2, below.

5.2 Upon receipt of the Grant funding, the Municipality will follow its own internal administration and processing policies to accept and subsequently provide the funding to the Grantee; provided that such administration and processing period shall not take more than three (3) months from the date on which the Municipality receives funding from the Community. The Municipality may not charge the Grantee or the Community any administration, management, or other fee for acting as the fiscal agent.

ARTICLE VI – MUNICIPALITY'S REPRESENTATIONS, WARRANTIES, AND SPECIFIC OBLIGATIONS

6.1 By executing this Agreement, the Municipality represents and warrants that:

(a) All resolutions or other formalities necessary to authorize the execution and delivery of this Agreement by the person executing this Agreement on behalf of the Municipality have been fully adopted, passed, or enacted by the Municipality's governing body.

(b) This Agreement is valid and legally binding upon the Municipality and has been executed and delivered by the Municipality in such manner and form as to comply with all laws, regulations, and policies applicable to the Municipality.

(c) The Municipality will not assess any fee, tax, or other charge upon either the Grantee or the Community in relation to this Agreement or any administrative or management obligation arising hereunder.

(d) Upon receipt of the Grant from the Community, the Municipality will act as promptly as possible to provide the Grant funding to the Grantee; provided that, the Municipality shall provide the Grant funding to the Grantee within three (3) months of receiving the funding from the Community.

6.2 The Municipality acknowledges that nothing contained in this Agreement, nor any act of the Community, the Municipality, or the Grantee, will be deemed or construed to create any principal and agency, partnership, joint venture, or other similar association or relationship among the Community and the Municipality or the Grantee.

ARTICLE VII – GRANTEE’S REPRESENTATIONS, WARRANTIES, AND SPECIFIC OBLIGATIONS

7.1 By executing this Agreement, the Grantee represents and warrants that:

(a) The Grantee is duly organized and validly existing under Arizona law, is exempt from federal income taxes under Section 501(c) (3) of the Internal Revenue Code (or some other applicable provision) and has all requisite power and authority to enter into this Grant Agreement and accept this Grant funding.

(b) This Agreement is valid and legally binding upon the Grantee and has been executed and delivered by the Grantee in such a manner and form as to comply with all applicable bylaws or organizational documents of the Grantee.

(c) There is no action, proceeding, or investigation now pending, nor any basis therefore, known or believed to exist by the Grantee, which: (i) questions the legal status of the Grantee or its authority, including the Grantee’s or its officers’ ability to enter into and validly execute this Agreement; or (ii) is likely to result in any material adverse change in the authorities, properties, assets, liabilities, or conditions (financial or otherwise) of the Grantee which would materially and substantially impair the Grantee’s ability to manage funding or to perform any of the obligations imposed upon the Grantee by this Agreement.

(d) The representations, statements, and other matters contained in this Agreement and Attachment A are true and complete and are not misleading in any material respect. The Grantee is aware of no change that would require any modification to the approved Application as of the date of execution of this Agreement.

(e) The Grantee will comply with all applicable federal, state, and local laws in carrying out its obligations under this Agreement.

7.2 The Grantee acknowledges that nothing contained in this Agreement, nor any act of the Community, the Municipality, or the Grantee, will be deemed or construed to create any principal and agency, partnership, or joint venture, or other similar association or relationship between the Community and the Grantee.

ARTICLE VIII - DEFAULTS AND REMEDIES

8.1 The Grantee will be considered in default if the Grantee either: (a) uses Grant funds for any purpose other than activities related to the Project, or (b) fails to perform its obligations agreed to in this Agreement.

8.2 If the Community has reason to believe that the Grantee has defaulted on any obligations under this Agreement, the Community will issue a Notice of Default (“Default Notice”) to the Grantee with a copy to the Municipality. No later than thirty (30) calendar

days after the Grantee's receipt of the Default Notice, the Grantee, shall deliver all reports, records, and accountings sufficiently necessary to provide the Community with the current status of the Project, including but not limited to information documenting the Grantee's use of the grant funding.

8.3 Upon the occurrence of any default, the Community may take appropriate action to recapture the Grant funding. For purposes of this Section, "appropriate action" means any remedial action legally available, including, without limitation, (a) terminating the Agreement, (b) suits for declaratory judgment, specific performance, or temporary or permanent injunctions, and (c) and any other available remedy.

8.4 The Community may terminate this Agreement if the Community determines that the Grantee has defaulted on any of its obligations under this Agreement. Prior to terminating the Agreement, the Community will provide written Default Notice to the Grantee and the Grantee has thirty (30) calendar days to either: (a) commence performing as required under the Agreement, which must be proven through documentation showing progress; or (b) provide the Community with reports and other evidence refuting the allegation of default. If the Grantee does not provide evidence of progress to the Community's satisfaction, the Community may terminate this Agreement. If this Agreement is terminated by the Community, the Grantee shall return to the Community all Grant funding and/or any property purchased with the Grant funding.

8.5 The Municipality will be deemed in default if the Municipality has not provided the Grant funding to the Grantee within three (3) months after accepting Grant funding from the Community.

8.6 Any dispute between the parties hereto regarding the interpretation, performance, breach, or enforcement of this Agreement shall be submitted to and resolved by arbitration in accordance with procedures mutually agreed to by the parties hereto; or, when the parties cannot agree, in accordance with the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association. Any arbitration awarded shall not include punitive, incidental, or consequential damages.

ARTICLE IX - TERMINATION OF AGREEMENT

9.1 The Grantee may terminate this Agreement at any time during the Term by providing thirty (30) calendar days' written notice to the Community and the Municipality and returning **ALL** Grant funding to the Community.

9.2 The Municipality may terminate this Agreement before accepting any Grant funding from the Community. After the Municipality has accepted funding from the Community, the Municipality may only terminate this Agreement if the Municipality has not yet provided the Grant funding to the Grantee. The Municipality must immediately provide written notice of any decision to terminate this Agreement to the Community and the Grantee and must return **ALL** Grant funding received to the Community with the notice of termination.

9.3 The Community may terminate this Agreement if the Community determines that either Grantee or the Municipality has defaulted on its respective obligations agreed upon herein, as explained in Article VIII.

9.4 The Community's rights and remedies will survive termination of the Agreement.

ARTICLE X - CERTIFICATIONS BY GRANTEE

In signing this Agreement, the Grantee certifies that:

- (a) All of the representations and warranties of the Grantee as set forth in this Agreement and the Application are valid and true; and
- (b) The Grant funds awarded will be used for costs actually incurred or to be incurred in fulfillment of the obligations agreed to in this Agreement; and
- (c) The payment requested does not duplicate a payment or reimbursement of costs and services received from any other source.

ARTICLE XI - REPORTS

11.1 During the term of this Agreement, the Grantee must submit progress reports that summarize the expenditures made and provide updates on the general status of the Project no later than thirty (30) calendar days after:

- (a) The first six (6) months of the Term; and
- (b) Completion of the Project or the end of the Agreement Term, whichever occurs first. If a Grant was awarded to make a purchase, the date of delivery of all items shall be deemed completion of the Project.

11.2 Upon request by the Community, the Grantee shall provide promptly such additional information, reports, and documents as the Community may request.

ARTICLE XII - MISCELLANEOUS

12.1 All amendments, notices, requests, and disclosures of any kind made pursuant to this Agreement shall be in writing unless otherwise provided for in this Agreement.

12.2 Any communication will be deemed effective as of the date such communication is received by the addressee, return receipt requested, delivered to the following primary address listed for each party:

If to the Community: PRIMARY ADDRESS CC:	Ak-Chin Indian Community ATTN: Council Executive Secretary 42507 W. Peters and Nall Rd. Maricopa, Arizona 85138 Strickland & Strickland, P.C. Ak-Chin Indian Community General Counsel 4400 E. Broadway, Suite 700 Tucson, Arizona 85711
If to the Grantee: PRIMARY ADDRESS	Eloy Fire District ATTN: Rob Jarvis, Division Chief/Fire Marshal 4101 N Toltec Rd Eloy, Arizona 85131
If to the Municipality: PRIMARY ADDRESS	City of Eloy ATTN: Brian Wright 595 N. C Street, Suite 103 Eloy, Arizona 85131

12.3 This Agreement, including any right, benefit, or obligation arising hereunder, may not be transferred or assigned without the prior written approval of the Community. Notice of any assignment approved by the Community must be provided to all other parties by the party requesting the assignment.

12.4 No delay or omission of the Community in exercising any right or remedy available under this Agreement will impair any such right or remedy, or constitute a waiver of any default, or an acquiescence thereto.

12.5 The invalidity of any provision of this Agreement will not affect the validity of the remaining provisions hereof.

12.6 This Agreement, and any attachments or incorporated documents, constitutes the entire agreement between the Community, the Municipality, and the Grantee, and supersedes all prior oral and written agreements between the parties hereto with respect to this Grant. Notwithstanding the provisions of Article I, Section 1.1 of this Agreement, in the event of any inconsistency between the provisions of this Agreement and anything contained in Attachment A, the provisions of this Agreement will prevail.

12.7 This Agreement may be executed in any number of counterparts. All such counterparts will be deemed to be originals and together will constitute but one and the same instrument.

12.8 Upon the Community's prior written approval, the Grantee is permitted to issue press releases and host other publicity events highlighting the Grant from the Community.

12.9 The Community reserves and has the exclusive right to waive any requirement or provision under this Agreement; provided that, no act, by or on behalf of the Community, will be deemed or construed to be a waiver of any such requirement or provision, unless the same be in writing expressly stated to constitute such waiver.

12.10 Notwithstanding any other provision herein to the contrary, nothing in this Agreement shall be deemed a waiver of any party's applicable sovereign immunity. The Community and the Municipality shall have no liability for any of the Grantee's actions under or pursuant to this Agreement. The Grantee agrees to be responsible for liabilities arising from all claims, damages, or suits arising from the negligence or willful misconduct of its officers, agents, and employees.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective, duly authorized representatives, as of the day and year written below.

COMMUNITY:
AK-CHIN INDIAN COMMUNITY

GRANTEE:
CITY OF ELOY

_____/_____/_____
Robert Miguel
Chairman

_____/_____/_____
Name: _____
Title: _____

ATTEST:

ATTEST:

Victoria A. Smith
Council Executive Secretary

Name: _____
Title: _____

GRANTEE:
ELOY FIRE DISTRICT

 11 RB 12024
Rob Jarvis
Division Fire Chief/Fire Marshal

ATTEST:



NAME

TITLE

Kelly Weddle

Fire Chief

2024 Ak-Chin Indian Community Grant Application Cover Sheet

Name of Applicant: Eloy Fire District	Applicant is a ☐ City/Town/County (circle) ☒ Other
Mayor/Supervisor/Chairman/President: Belinda Akes	
Contact Person and Title: Rob Jarvis, Division Chief/Fire Marshal	
Applicant Address (administrative office): 4010 N Toltec Rd	
City: Eloy, Arizona	Zip Code: 852131
Applicant Mailing Address (if different): Same as above	
City:	Zip Code:
Phone Number: 520-466-3544	Fax Number: 520-466-0003
E-mail Address: rjarvis@eloyfire.org	
Fiscal Agent for any Applicant that is not a City, Town, or County (Special Taxing Districts/Fire Districts must have a Fiscal Agent)	
Contact Person: Brian Wright	
City/Town/County Mailing Address: 595 N. C Street, Suite 103	
City: Eloy, Arizona	Zip Code: 85131
Phone Number: 520-464-3425	Fax Number:
E-mail Address: bwright@eloyaz.gov	

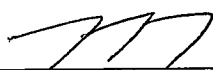
JUL 11 2024

Program or Project Name: Eloy Fire Cancer and Illness Reduction Program
Purpose (Check all that apply) ☐ education ☐ public safety ☐ health ☐ environment ☐ promotion of commerce ☐ economic and community development
Purpose of Grant (brief statement): The goal of the Eloy Fire District is to reduce the risk of cancer and illness by eliminating carcinogens and pathogens. We currently have washing machines for uniforms but inadequate extractors (washing machines for turnouts) for safe effective washing of turnout gear, to meet NFPA and manufacture specifications. We are also looking for turnout gear dryers.
Beginning and Ending Date of Program or Project: Start January 2025 – Finish July 25 depending on funding and product availability
Amount Requested: \$38,650 Total Cost: \$48,650
Geographic Area Served: Pinal County area around Eloy & Toltec

By the execution of this Grant Application the undersigned agrees that the information contained in this Application is true, to the best of the Applicant's knowledge. The Applicant shall notify the Community if any information in this Application changes.

Signature:

For the Applicant:



Date: 07/08/2024

Typed/Printed Name and Title: ROB JARVIS FIRE MARSHAL

For the Fiscal Agent:

City of Eloy

Date: 7/8/2024

(If applicable)

Typed/Printed Name and Title:

Micah Powell, Mayor

A. Purpose of Grant

The purpose of our project is the health and safety of our firefighters and the public we come in contact with. The goal is to significantly reduce the risk of cancer and illness for our firefighters and the public we encounter. We want to specifically reduce the risk of cancer from carcinogens and heart attacks in firefighters. Exposure to chemicals, chemical compounds, and carcinogens makes up the "toxic soup" that immerses a firefighter during interior structural firefighting. Firefighters also encounter very sick people while wearing our equipment becoming contaminated with viral, bacterial diseases, and other biohazard materials.

We want to provide a way to properly reduce the risk of contamination and secondary contamination from carcinogens and other chemical hazards by properly cleaning PPE (turnouts, wildland Nomex) and uniforms.

To accomplish this goal, we need two pieces of equipment a washer/extractor and a drying cabinet. In household terms, we need a fancy washing machine and dryer.

The target population benefitting from this project is primarily firefighters themselves. They are exposed to and handle this gear every day that they are at work.

However, every member of the general public who comes in contact with firefighters using this equipment if not cleaned properly is potentially exposed to cancer-causing carcinogens and other viral, bacterial, and biohazard materials.

The extractor (washer) has National Fire Protection Association (NFPA) settings scientifically designed to efficiently wash our equipment without damaging the level of protection it provides while ridding the material of carcinogens and biohazards.

Firefighter PPE dryer uses warm flowing air to dry turnouts without harmful heat and tumbling or damaging UV rays from the sun. Also, they facilitate the off-gassing of contaminants and exhausting them outside the station to prevent secondary or cross-contamination. A drying cabinet can safely dry several sets of turnouts in four (4) hours as opposed to all day in the apparatus bay, laying around collecting vehicle exhaust and potential damage.

For justification, over the last five years, we annually averaged 32 structure fires, 25 hazardous material calls, 66 miscellaneous calls (car, dumpster, and trash type fires), and 44 wildland fires. The average set of turnouts or wildland Nomex set is washed 15 to 20 times per year. That is an excessive amount of potential exposure to toxins by our firefighters if not washed. We need to wash our gear/equipment more thoroughly without causing damage that may put firefighters at risk or require expensive replacement.

This project just requires equipment and installation. Once funded the timeline is simply to order the equipment in about 2 weeks, wait for delivery which is currently estimated at 8 weeks but subject to change (per the vendor), and two weeks to get the installation scheduled. During the 8-week order/delivery time, Eloy Fire will make any necessary utility (water, sewer, electric) changes at our expense to accommodate the new equipment.

B. Resources

We originally considered purchasing the items outright but we could not generate the funding needed in our budget and choices had to be made. We then applied to the State of Arizona under Senate Bill 1720 but with State priorities and the number of projects submitted, we were not chosen.

Now we are trying our luck with the tribes. We have broken the project down to make our request smaller and less expensive grants. We sent a request for funds from Tohono O'odham for two (2) equipment (Solo style) washers. These washers clean helmets, boots, SCBAs, masks, and similar equipment.

We are asking Ak Chin for one (1) extractor (NFPA-compliant washing machine) and two (2) drying cabinets. We have one extractor but washing 10 – 15 sets of turnouts takes a day and a half to two days and requires shuttling all the contaminated turnouts to one location. It also leaves firefighters without proper equipment.

C. Reports

Eloy Fire District will provide the Ak Chin Indian Community with any report or information needed to satisfy the terms of the grant process. We would be eager to attend a Council meeting and report in person if desired.

Generally, we provide a copy of the invoice, a copy of the check or statement showing payment, and a short letter and picture to show installation and short letter to say thank you. Some grantors request a copy of our purchasing or Asset Management policy, we can provide that if necessary.

D. Budget

Budget:	Washer/Extractor	\$ 15,203.00	Grant Money (Quote)
	Dryers (2)	\$ 17,346.00	Grant Money (Quote)
	Total Cost	\$ 38651.49	(includes estimated tax and freight)

Eloy Fire would consider partial funding of just the washer or one set (washer/dryer.)

Installation cost estimated at \$10,000.00 to upgrade utility connections to be covered by Eloy Fire.

The washer includes the soap and disinfectant pump. It comes with NFPA-recommended programming and support. Final connection and training on proper use and procedures are included. We are asking for just one (1) at \$34,125.80 each.

The firefighter drying cabinet has NFPA programable settings, capable of holding up to 6 sets of turnouts. This cabinet also has additional racks available for boots, helmets, SCBAs, and other equipment that the department will purchase separately. We are asking for two (one at each station) \$19,603.69 (\$9801.85 each.)

The Fire District will assume all costs of modifying current electrical, plumbing, and sewer connections at the stations to have the connection points within the 3 feet as required. These improvements are estimated to cost a minimum of \$10,000 (covered by the Eloy Fire District.)

We have done our due diligence, considered the pricing of the equipment, and made sure everything is confirmed to comply with the NFPA and manufacturing requirements of our equipment. All pricing includes new equipment with manufacturer warranties. No extended warranties were offered at the

time of the quote. If extended warranties are offered at the time of purchase, the Fire District would purchase them at our own expense.

E. Additional information

As we have done in the past we share resources with neighboring agencies in Pinal County. Eloy Fire participates in the county and state-wide mutual aid compacts and responds to wildfires around the southwest under a co-op agreement with the Arizona Department of Forestry and Fire Management.

Eloy Fire District was formed on the 19th day of August in 1946 before the City of Eloy was incorporated. Currently, the Eloy Fire District serves over 10,000 residents in an area of over 55 square miles, including Interstate 10 and 8, State Highways 84 & 87, and the Union Pacific Railway. Eloy Fire District is a combination department with two fire stations, 35 full-time employees, and part-time employees.

Attached for reference is the quote and literature obtained for the purpose of writing this request. If awarded Eloy Fire will get updated quotes and make the final selection at that time. The attached is just for reference only.

Attachments



104468

SALES AGREEMENT

Bill To ELOY FIRE DISTRICT
Address 4010 N TOLTEC RD
City ELOY
State ARIZONA
Zip Code 85131
Phone 1 520-466-3544
Phone 2
Fax
Deposit Req 100%
Deposit Rec
Terms BALANCE DUE BEFORE INSTALLATION/DELIVERY

How to Ship
Contact ROB JARVIS
Email rjarvis@eloyfire.org

Date 9-Jan-24
Ship To ELOY FIRE DISTRICT
Address 4010 N TOLTEC RD
City ELOY
State ARIZONA
Zip Code 85131
Phone 1 520-466-3544
Phone 2

When

Quantity	Model	Description	Unit Price	Amount
1	UCT060QN0GXU70B	Unimac 60 Pound Capacity Hardmount Washer Extractor M9 Microprocessor, 9 cycles, PC Programmable Cylinder Volume 9.0 Cu Ft., Final Extract 100 G Force 200-240 Volt, 1-3 Phase, 15 Amp Breaker, Shipping Wt. 720 Lbs.	\$ 14,331.00	\$ 14,331.00
1	ACBF60X8X110002	Pedestal, Black, 8"	\$ 872.00	\$ 872.00
2	UTGC6EDG6501W01	Unimac Firefighter's PPE Drying Cabinet, Electric Heated, 5 Programmable Cycles, Space For 6 Full Sets of Gear, DMP Control, Glove/Boot Rack Included, 240v/60/1 Phase, 40 Amp Brkr	\$ 8,673.00	\$ 17,346.00

WARRANTY:
3 YEARS ALL PARTS

PLEASE NOTE: A 3% UPCHARGE WILL BE APPLIED TO THE TOTAL SALE WHEN PAYING BY CREDIT CARD

Installation Includes:

ONE TRIP FOR DELIVERY, UNCRATING, TRASH REMOVAL, AND EQUIPMENT
PLACEMENT. ANCHORING AND GROUTING AS NEEDED. REMOVAL AND HAUL
AWAY OF OLD EQUIPMENT. FINAL HOOKUPS TO UTILITIES WITHIN 3' OF EQUIP.
NO ADDITIONAL PLUMBING, ELECTRICAL, CARPENTRY, OR MECHANICAL WORK
ARE INCLUDED. CLEAR ACCESS TO BE PROVIDED BY OWNER.

	Total Equipment	\$ 32,549.00
2.60%	City Sales Tax	NA
6.10%	State Sales Tax	\$ 1,985.49
	Freight	\$ 1,447.00
	Installation	\$ 2,670.00
	Total Amount of Sale	\$ 38,651.49

THE GENERAL TERMS AND CONDITIONS ARE MADE A PART OF THIS AGREEMENT, AND THE UNDERSIGNED HEREBY ACKNOWLEDGES THAT HE HAS READ SAID GENERAL CONDITIONS AND KNOWS THE CONTENTS
THEREOF. ACCEPTANCE OF SALES AGREEMENT AND CREDIT APPLICATION WHEN FINANCED, ARE CONTINGENT UPON APPROVAL BY COIN & PROFESSIONAL EQUIPMENT CO.

IF PAYMENT IS NOT RECEIVED IN ACCORDANCE WITH THE AGREED UPON PAYMENT TERMS, BUYER SHALL GRANT CPEC FREE AND UNOBSTRUCTED ACCESS TO ALL EQUIPMENT, MATERIALS, PARTS OR ACCESSORIES LISTED
HEREIN FOR THE PURPOSE OF REPOSSESSION OR DISASSEMBLING UNTIL PAYMENT IS MADE.

Date: 2/8/2024
Buyer's Signature: [Signature]
Print Name: Micah Powell

Date: 9-Jan-24
Seller's Signature: Lance McLaren
Print Name: Lance McLaren

3202 S. Richey Ave.
Tuc., AZ 85713
520-790-7377
Fax 520-747-5370

WWW.CPEC-LAUNDRY.COM

General Terms and Conditions

1. Acceptance of this order is subject to approval of the Credit Department of CPEC.
2. This order shall be subject to the usual terms and conditions set forth in the invoices of CPEC unless otherwise in writing.
3. It is understood that all of the prices set forth are on a cash basis, and that if a time purchase is contemplated or is made by the Buyer, the prices will be adjusted to include a time price differential. In certain instances a "SERVICE FINANCE CHARGE" of 1% per month ("PERIODIC RATE") may be imposed on invoices not paid by the last day of the current month and each month thereafter ("ANNUAL PERCENTAGE RATE:12%"). If an attorney must be employed by Seller to collect payment on any order, the Buyer agrees to pay a reasonable attorney's fee and all court costs. There shall be a \$15.00 charge for returning checks.
4. All prices are F.O.B. source shipping point unless noted otherwise. Breakage or shortage claims arising from shipments are to be made by Buyer directly against the carrier.
5. Prices do not include accessory equipment unless such items are specifically listed.
6. No representations, guarantees or warranties of any kind or nature are made in respect to any of the equipment listed upon the reverse side hereof, provided, however, that if the Seller acquires from the manufacturer or manufacturers of said equipment any warranty in connection therewith, the Buyer shall succeed to any such warranties. NO IMPLIED WARRANTY OF FITNESS OR MERCHANTABILITY IS MADE BY CPEC AND THERE ARE NO WARRANTIES TO EXTEND BEYOND THE DESCRIPTION OF THOSE SET FORTH HEREIN. CPEC SHALL NOT BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES.
7. CPEC shall not be accountable for delays in delivery caused by legislative, administrative or executive law, order or requisition of the federal government or of any state or municipal government of any sub-division, department, agency, officer or official thereof, or if caused by events not under the control of CPEC including, by way of example but not by of limitation, strikes, fires, floods, accidents, delays of manufacturers or carriers, inability to obtain suitable labor and necessary supplies of raw materials or any other unavoidable contingencies beyond the control of CPEC. In no event shall CPEC be liable for any consequential or special damages arising from the delay in or lack of delivery. This order will be accepted subject to prior sale and availability of materials from suppliers.
8. All sales are made as conditional sales or on purchase money agreements only. All goods or services sold or shipped remain the property of CPEC until all conditions of sale, including final payment are completed (rental property remains the property of CPEC in all events). It is understood and agreed that CPEC shall have all rights of unpaid Sellers under secured sales arrangements pursuant to Arizona Uniform Commercial Code. This document or ensuing invoice may be recorded as a Financing Statement pursuant to Arizona Uniform Commercial Code. If payment is not received in accordance with the agreed upon payment terms, Buyer shall grant to CPEC free and unobstructed access to all equipment, material, parts, or accessories listed upon the reverse side hereof for the purpose of repossession or disabling until payment is made.
9. CPEC shall not be liable for any labor charges other than those agreed upon in advance between the manufacturer and the purchaser of the products covered by this order.
10. Cancellation of this order or return of merchandise by the Buyer shall be by mutual agreement in writing only and, if agreeable to CPEC, shall be based on any adjustment necessary to cover labor extended, material procured and reasonable overhead expenses applicable thereto.
11. Buyer shall indemnify and hold harmless the Seller from loss, damage, claims, and suits of any kind or nature claimed or asserted by any third party for or on account of the installation, operation and use of the machinery listed upon the reverse side hereof.
12. This agreement constitutes the entire agreement between the Buyer and Seller and all negotiations, representations, promises or endorsements, if any, made in any negotiations leading up to the execution of the agreement become merged herein. The Seller shall not be bound by or liable to the Buyer for a representation, promise, or endorsement made by any agent or person in the Sellers employ not embodied in this agreement. The Buyer, in purchasing the equipment and materials covered by this agreement, obtains no franchise or territorial or location protection from the Seller, and no agent or person in the Seller's employ has any authority to bind Seller on any representation pertaining to any franchise, territory or location protection arrangement.
13. In the event the price of the equipment covered by said agreement is increased to the Seller prior to delivery thereof to the Seller the price shown upon the reverse side hereof shall be increased by any amount equal to the percentage of such increase to the Seller and the same shall be added to the final payment due from the Buyer.
14. Buyer agrees to pay Seller for any additional insurance fees incurred by Seller due to specific insurance endorsements required by Buyer.

7/8, 20 24
Date


Buyers Signature:
Micah Pavey
Print Name

RESOLUTION NO. 24-1582

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ELOY, ARIZONA, APPROVING SUBMISSION OF AN APPLICATION FOR PROPOSITION 202 GRANT FUNDS FROM THE AK-CHIN INDIAN COMMUNITY IN THE AMOUNT OF \$38,651.49 FOR THE USE OF FUNDS TOWARDS THE COSTS OF PURCHASING ONE (1) WASHER/EXTRACTOR AND TWO FIREFIGHTER DRYING CABINETS FOR THE ELOY FIRE DISTRICT

WHEREAS, Eloy Fire District needs two (2) washers/extractors and two (2) firefighter drying cabinets to adequately clean turnouts and other personal protective equipment; and

WHEREAS, Eloy Fire District currently has only one (1) washer/extractor and no firefighter drying cabinets; and

WHEREAS, in 2002, Arizona voters passed Proposition 202 which allowed for the continuation of limited Indian gaming on tribal lands in Arizona and under Proposition 202, Arizona tribes agreed to share a portion of their revenues with the State of Arizona and, of the revenues shared, twelve percent is made available to cities, towns, or counties for a purpose benefiting the general public through either direct distribution to the local governments or in the form of a deposit to the State of Arizona's Commerce and Economic Development Commission's Local Community Fund; and

WHEREAS, for its 2024 revenue sharing, the Ak-Chin Indian Community chose to contribute directly to local governments and is seeking requests for funding proposals from Arizona cities, town and counties; and

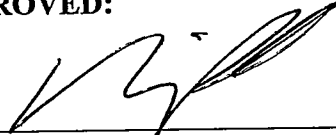
WHEREAS, the Eloy Fire District desires to submit an application to the Ak-Chin Indian Community for Proposition 202 grant funds to be used towards the costs of purchasing one (1) washer/extractor and two (2) firefighter drying cabinets; and

WHEREAS, the Mayor and City Council of the City of Eloy, Arizona believe it is in the best interest of the citizens of the City of Eloy to submit an application to the Ak-Chin Indian Community for Proposition 202 grant funds to be used towards the costs of one (1) washer/extractor and two (2) firefighter drying cabinets.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and City Council of the City of Eloy, Arizona, hereby approves the submission of an application to the Ak-Chin Indian Community for Proposition 202 grant funds to be used towards the costs of purchasing one (1) washer/extractor and two (2) firefighter drying cabinets.

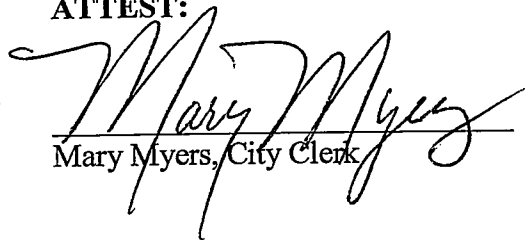
PASSED AND ADOPTED by the Mayor and City Council of the City of Eloy, Arizona, this 8th day of July, 2024.

APPROVED:



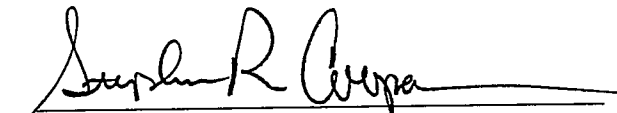
Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk

APPROVED AS TO FORM:



Stephen R. Cooper, City Attorney

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: **VII.G.**

Date: **12/9/2024**

Date submitted:
12/05/2024

Action: Formal

Subject: Approval of a One-Year Revocable Agreement with Flock Group, Inc., to Install and Maintain Eleven (11) Automated License Plate Reader (ALPR) Cameras, four (4) Multipurpose ALPR/Video Cameras, and Establish a Real-Time Crime Center (RTCC) at the cost of \$60,500.00, with pricing per the City of Tempe Cooperative Contract # T21-119-01.

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Brian Jerome, Captain

RECOMMENDATION:

Staff recommends that the City Council approve a one-year revocable agreement with Flock Group, Inc., to install and maintain eleven (11) ALPR cameras and four (4) Multipurpose ALPR/Video Cameras and establish a Real-Time Crime Center (RTCC) through their cloud-based solution at a cost not to exceed \$60,500.00 utilizing the City of Tempe Cooperative Contract # T21-119-01.

DISCUSSION:

The Eloy Police Department proposes entering into an agreement with Flock Group, Inc., to deploy **11 ALPR cameras** and **4 multipurpose ALPR/video cameras** throughout the City, along with a Flock OS Elite Package subscription. This cloud-based platform will serve as a **Real-Time Crime Center (RTCC)**, providing various options for integrating law enforcement technologies, such as ALPR real-time routing predictability, body-worn camera video, other video sources, and CAD data, into a unified, actionable dashboard.

Under this agreement, Flock Group, Inc., retains ownership of the cameras, handles their installation and maintenance, and provides access to the system through a subscription service. While Flock owns and maintains the hardware, **the Eloy Police Department retains complete ownership of all collected data.** This ensures the Department has exclusive control over its use, and the data will not be shared with private entities or unauthorized individuals.

Benefits of ALPR Systems:

ALPR systems automatically scan license plates and compare them to databases, alerting officers and dispatch of potential matches associated with:

- Stolen Vehicles
- Active Warrants
- Amber Alerts, Silver Alerts, or Missing Persons
- Vehicles connected to violent crimes or drug trafficking

Additional benefits include:

- **Faster Investigations:** ALPR can capture thousands of license plates daily, far exceeding any human capacity
- **Hit-and-Run Investigation Support:** Detailed vehicle data (e.g. make, model, and condition) aids in identifying vehicles involved in serious or fatal collisions
- **Crime Deterrence:** Visible ALPR cameras may discourage criminal activity

Strategic Applications

The system's capabilities include:

- Real-time alerts for crimes in progress or vehicles near sensitive areas (e.g., a vehicle registered to a sex offender scanned near a school or playground)
- Collaboration with regional law enforcement for multi-jurisdictional cases - currently, the Eloy Police Department is one of only two law enforcement agencies in Pinal County that **do not** already utilize Flock ALPR technology
- Analyzing crime trends and correlations to improve resource allocation
- The ability to enter into existing Memorandums of Understanding (MOUs) with other law enforcement agencies using Flock. This will notify the Department immediately if a vehicle suspected of a crime enters another jurisdiction and is detected by a Flock ALPR system.

The Department currently deploys other types of camera technology, but not to the degree or capability of ALPR technology. The Criminal Investigations Unit utilizes a limited number of mobile camera systems, referred to as "pole cameras," that have already proven tremendously effective in combating and solving crime.

Recently, a shooting occurred over a holiday weekend. A pole camera system deployed in the area captured video of a suspect's vehicle entering the area just prior to the shooting. The camera system recorded the sounds of gunfire, and officers later stopped the suspect's vehicle and made an arrest. Shell casings consistent with the number of gunshot sounds recorded by the camera system and weapons were recovered inside the suspect's vehicle, and officers were able to make an arrest.

Benefits of a Real-Time Crime Center (RTCC)

The RTCC will centralize intelligence gathering and operational coordination, offering:

- **Enhanced Public Safety:** Faster response times, proactive crime prevention, and real-time situational awareness for officer safety
- **Streamlined Operations:** Integration of various video feed sources, providing critical, real-time updates to officers in the field
- **Cost-Efficiency:** Cloud-based infrastructure minimizes upfront costs while providing scalability for future needs and community expectations
- **Community Trust:** Transparent, auditable use of data ensures accountability and builds public confidence in the Department

Privacy Protections:

This proposal includes robust safeguards to protect community privacy, including:

- **Limited Data Collection:** ALPR only captures license plates and vehicle images, not drivers or passengers
- **Data Retention:** Stored for no more than 30 days, unless needed for an investigation
- **Restricted Access:** Controlled by the Eloy Police Department; no sharing of data with private entities or unauthorized individuals
- **Audit Trails:** All system access is logged indefinitely for oversight and policy compliance

Funding

Though not budgeted, the \$60,500.00 cost will be covered through existing funding sources, including any combination of:

- Proposition 207 Funds: \$73,000 available
- Police Impound Fees: \$21,162.80 available
- Police Safety Equipment Funds: \$14,445.95 available

Additionally, vacancy savings from unfilled positions will supplement costs. Flock Group, Inc. has waived installation fees and access fees for the RTCC software solution, saving the City approximately \$25,750.00. If funding is no longer available, there is no obligation to continue this agreement after one year. The estimated cost of year two, if the agreement were extended, is \$75,500.00.

Implementation Plan:

The Eloy Police Department will:

1. Identify deployment locations based on crime trends, traffic flow, and community needs.
2. Collaborate with Flock Group to install city-approved poles and public rights-of-way.
3. Integrate existing departmental video and data systems into the RTCC platform.
4. Engage local businesses and residents to voluntarily register their cameras on a camera registry website to alert officers of the existence of cameras in the area, which may aid in criminal investigations.

Flock will install cameras where directed on specific City-owned streetlight poles or traffic signal poles if authorized by the City in its sole discretion and use of the public highways, public streets, public rights-of-way, and public utility easements in the City to provide Flock Services pursuant to the terms of this Service Agreement. The equipment to be installed consists of the aforementioned ALPR cameras and may include the pole, clamps, solar panels, installation components, and any other physical elements needed to accomplish the installation. All installations shall comply with City construction and engineering standards and will be installed and constructed only at sites approved by the Eloy Police Department and the City of Eloy.

A quarterly progress report highlighting successes and operational insights will be provided to the City Manager for distribution to the City Council.

FISCAL IMPACT:

The fiscal impact of this agreement is \$60,500.00, which includes applicable sales tax. Funds are available through a combination of several sources, including Proposition 207 funds, Police Impound Fees, Police Safety Equipment Funds, and vacancy savings from unfilled positions in the Department.

Approved as to Form:



Stephen R. Cooper, City Attorney

Flock Safety + AZ - Eloy PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Hamza Al Baroudi
hamza.albaroudi@flocksafety.com
4804892024

flock safety



EXHIBIT A
ORDER FORM

Customer:	AZ - Eloy PD	Initial Term:	12 Months
Legal Entity Name:	AZ - Eloy PD	Renewal Term:	12 Months
Accounts Payable Email:	bjerome@eloyaz.gov	Payment Terms:	Net 30
Address:	630 N Main St Eloy, Arizona 85131	Billing Frequency:	Annual Plan - First Year Invoiced at Signing.
		Retention Period:	30 Days

Hardware and Software Products
Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$60,500.00
Flock Safety Flock OS			
FlockOS® Elite Package	\$0.00	1	\$0.00
Enhanced LPR Upgrade	\$7,500.00	1	\$7,500.00
Flock Safety Bundles			
Flock Safety Solar Multi-Purpose LPR and Video Fixed w/ LTE Service	\$5,000.00	4	\$20,000.00
Flock Safety LPR Products			
Flock Safety Falcon ®	\$3,000.00	11	\$33,000.00

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Bundle Implementation Fee	\$0.00	4	\$0.00
Professional Services - Standard Implementation Fee	\$0.00	11	\$0.00

Subtotal Year 1:	\$60,500.00
Annual Recurring Subtotal:	\$60,500.00
Discounts:	\$25,750.00
Estimated Tax:	\$5,846.00
Contract Total:	\$60,500.00

The Term for Flock Hardware shall commence upon first installation and validation, except that the Term for any Flock Hardware that requires self-installation shall commence upon execution of the Agreement. In the event a Customer purchases more than one type of Flock Hardware, the earliest Term start date shall control. In the event a Customer purchases software only, the Term shall commence upon execution of the Agreement.

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Referencing Tempe, AZ cooperative contract T21-119-01

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$60,500.00
Annual Recurring after Year 1	\$60,500.00
Contract Total	\$60,500.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	\$15,000.00
Flock Safety Add-ons	\$0.00
Flock Safety Professional Services	\$10,750.00

Product and Services Description

Flock Safety Platform Items	Product Description
FlockOS® Elite Package	Distinguishing itself from traditional brick-and-mortar real-time crime centers (RTCCs) and other cloud-based solutions, FlockOS® Elite is scalable and community-powered, offering a versatile, cloud-based RTCC platform.
Flock Safety Solar Multi-Purpose LPR and Video Fixed w/ LTE Service	Law enforcement grade bundled standard range license plate recognition camera and live streamed solar powerd fixed camera with 30 days of edge storage, with LTE. VMS included and server free. Installed and maintained by Flock Safety, turn key-no additional software or integrations required. with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users. AC power is also available if needed.
Flock Safety Falcon ®	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Enhanced LPR Upgrade	The Enhanced LPR Package is a software add-on for any of the FlockOS® tiers designed to help detectives and patrol officers conduct more efficient, informed, and collaborative investigations. Its advanced License Plate Recognition (LPR) features streamline investigations, providing officers with immediate access to essential information and improving communication within and across departments.
Professional Services - Bundle Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Flock Safety Falcon ®	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Solar Condor ™ Fixed	Law enforcement grade live streamed Solar powerd Fixed camera with 30 days of edge storage. VMS included and server free. Installed and maintained by Flock Safety, turn key-no additional software or integrations required. *Flock provided sim card camera is limited to 25 hours per month of live streaming.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.

By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: AZ - Eloy PD

By:

Signed by:

Mark Smith

AC5C931454C24F3...

Name: Mark Smith
Title: General Counsel
Date: 12/5/2024

By: _____
Name: Andrew Sutton
Title: Mayor
Date: _____
PO Number: _____

Last Updated: October 4, 2024

TERMS AND CONDITIONS

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Agreement**” means the order form (to be provided as Exhibit A, “**Order Form**”), these terms and conditions, and any document therein incorporated by reference in section 11.4.

1.2 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.3 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.4 “**Customer Data**” means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.5. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.6 “**Effective Date**” means the date this Agreement is mutually executed (valid and enforceable) by both Parties.

1.7 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.8 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.

1.9 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.10 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.11 “**Footage**” means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 “**Integration Data**” means any distribution of data from a Customer requested third party integration.

1.13 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.14 “**Permitted Purpose**” means legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.

1.15 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form .

1.16 “**Term**” means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.

1.17 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Customer shall be responsible for all acts and omissions of Authorized End Users. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “**Support Services**”).

2.4 Updates to Platform. Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock’s provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (“**Service Interruption**”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer’s direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer’s account (“**Service Suspension**”). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this Agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***“Customer Obligations”***).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions,

suggestions, or other information or materials produced by Customer (“**Customer Generated Data**”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

4.4 Data Distribution .

Customer may, upon request, choose to integrate Flock Services with a third party to either distribute Integration Data or Customer Data (such third party, “Recipient”). Upon such request, Customer hereby grants to Flock a non-exclusive, non-transferable, royalty-free, perpetual license to access, share, view, record, duplicate, store, save, reproduce, modify, display, and distribute Customer Data and/or Integration Data, as required by the requested distribution. Customer acknowledges that such data may be viewed, recorded, duplicated, stored, saved, reproduced, modified, displayed, distributed, and retained by Recipient for a period longer than Flock’s standard retention period and hereby provides consent to such retention period.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information includes non-public information provided by the Disclosing Party to the Receiving Party regarding features, functionality, and performance of this Agreement. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the

foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not (i) directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to discover or recreate the source code, object code or underlying structure, ideas or algorithms of the Flock Services or any software provided hereunder; modify, translate, or create derivative works based on the Flock Services or any software provided hereunder(ii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iii) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (iv) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (v) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in

the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. In the event of any changes to fees, Flock shall provide Customer with sixty (60) days notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 Taxes. To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 Term. The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Term**"). Unless otherwise indicated on the Order Form, the Term shall commence upon first installation of Flock Hardware, as applicable. Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 Termination. Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("Cure Period"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii)

upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the Cure Period, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 Survival. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 10.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock Service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK IS NOT LIABLE FOR ANY DAMAGES OR ISSUES ARISING FROM THIRD-PARTY DISTRIBUTIONS REQUESTED BY CUSTOMER. AFOREMENTIONED DISTRIBUTION IS AT CUSTOMER’S OWN RISK. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 Insurance. Flock will maintain commercial general liability policies to be provided as Exhibit B.

8.6 Force Majeure. Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each

Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("**Deployment Plan**"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance with Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon purchase order is subject to these terms. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon

any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the Order Form and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 Feedback. If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Customer or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use,

modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 Authority. Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 Conflict. In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 Notices. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. All notices will be provided to the email or mailing address listed in the Order Form.

11.15 Non-Appropriation. Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

These Terms and Conditions are subject to change.



REQUEST FOR PROPOSAL

RFP# 21-119 Fixed Camera ALPR Solution for Police

RFP ISSUE DATE:
March 3, 2021

DEADLINE FOR INQUIRIES/QUESTIONS:
March 12, 2021 AT 5:00 P.M. LOCAL ARIZONA TIME

RFP DUE DATE AND TIME:
March 24, 2021 at 3:00 P.M. LOCAL ARIZONA TIME

ALL INQUIRIES MUST BE DIRECTED TO:
Michael Greene, CPPO, C.P.M.
Michael_Greene@tempe.gov
480-350-8516

SUBMITTAL LOCATION: Due to the COVID Virus, Tempe will only accept an e-copy of the completed and signed proposal via e-mail to the following address:
Bids@tempe.gov

No hard copy proposals will be accepted at this time.

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General Instructions

Failure to follow these instructions may result in rejection of proposal for non-responsiveness or cancellation of any Contract awarded.

1. **Preparation of Proposal:**

- A. Proposals shall be submitted to the City of Tempe ("City") in the sequence specified herein, on the forms attached hereto, including Vendor's Offer.
- B. All proposals shall be submitted on the forms provided in this Request for Proposal, signed by an authorized signer and returned with the proposal response to the City.
- C. Completed and signed proposal forms for offer, acceptance and any solicitation addendums shall be signed by an authorized individual. Such proposal constitutes an irrevocable Offer to sell the good and/or service specified herein. Offeror shall submit all additional data, documentation, or information as requested by the City, signifying its intent to be bound by the terms of the Request for Proposal.
- D. Negligence in preparation of a proposal confers no right of withdrawal. Offeror is solely responsible for seeking clarification of any requirement and presenting accurate information in the proposal response. The City shall not reimburse any costs for a proposal, or its submission, presentation or withdrawal, for any reason. Failure to read, examine and understand the Solicitation and any of its addenda will not excuse any failure to comply with the requirements of the Solicitation or any resulting contract, nor shall such failure be a basis for claiming additional compensation.
- E. Offeror shall identify each subcontractor to be utilized in the services and/or work set forth herein, if applicable.

2. **Definitions:** For purposes of this Request for Proposal and resultant Contract, the following definitions apply:

- A. "City" means the municipal corporation of the City of Tempe, Arizona.
- B. "Code Governance" means unless otherwise specified herein, the provisions of the Tempe City Code, Chapter 26A shall apply and govern this Request for Proposal.
- C. "Contract" means the agreement for the procurement of goods, equipment, materials, software, maintenance, contracted services, professional services, or concessions.
- D. "Contractor" means an Offeror responding to a Request for Proposal who has been awarded a Contract with the City.
- E. "Offer" means a written offer to furnish goods, equipment, materials, software, maintenance, contracted services, professional services, or concessions to the City, in conformity with the standards, specifications, delivery terms and conditions, and all other requirements established in a competitive solicitation.
- F. "Offeror" means a business, entity or person who submits an Offer in response to a competitive solicitation.
- G. "Public Record" means proposals and all other documents submitted in response to this solicitation shall become the property of the City and shall be a matter of public record available for review following the Contract award.
- H. "Purchase Order" means a document issued by the Procurement Office directing the Contractor to deliver the goods, equipment, materials, software, maintenance, contracted services, professional services or concessions. to the City.
- I. "Request for Proposal" means a competitive solicitation issued by the City for the procurement of goods, equipment, materials, software, maintenance, contracted services, professional services or concessions.

General Instructions

3. **Late, Unsigned and/or Incomplete Proposal:** A late, unsigned and/or materially incomplete proposal will be considered nonresponsive and rejected.
4. **Inquiries:** Questions regarding this Request for Proposal shall be directed to the Procurement Officer identified on the cover page of this document, unless another City contact is specifically named. Inquiries shall be submitted in writing (preferably via e-mail), identifying the appropriate Request for Proposal's number, page and paragraph at issue. **PLEASE NOTE: Offeror must not place the Request for Proposal's number on the outside of an envelope containing questions.** Oral responses provided by the City shall have no binding effect or legal effect. Inquiries should be submitted within the designated timeframe noted on the front page of the solicitation. Those questions received after the designated date may be considered at the sole discretion of the Procurement Officer. The City reserves the right to contact Offerors to obtain additional information for use in evaluating proposal and solicitation requirements.
5. **Proposal Conference:** If a proposal conference is scheduled, Offerors are strongly encouraged to attend to seek clarification on any aspects of the documents that are not clear or questions that might pertain the specifications or scope of work published. There are times when attendance at a proposal conference is mandatory and those conferences shall be specially noted when applicable.
6. **Withdrawal of Proposal:** At any time before the specified proposal due date and time, an Offeror may withdraw its proposal by way of written correspondence from the Offeror or its authorized representative.
7. **Proposal Addenda:** Receipt and acceptance of a Request for Proposal addendum shall be acknowledged by signing and returning the document either with the vendor's proposal response or by separate envelope prior to proposal due date/time. Failure to sign and return an addendum prior to the proposal due date/time may result in the proposal being considered nonresponsive to that portion of the Request for Proposal and may result in rejection. For all addenda published, the City will send electronic notification to those companies who have downloaded the solicitation from the City's web site. If a company receives the solicitation via a third- party plan holder organization, it will be the responsibility of the company to download the solicitation from the City's web site to ensure that their company is included on any forthcoming addenda notification.
8. **Compliance with City Solicitation Requirements:** Unless stated otherwise in this Request for Proposal, the City reserves the right to award by individual line item, by group of items, or as a total at the City's discretion. The City expressly reserves the right to waive any immaterial defect or informality, or reject any or all proposals, or portions thereof, or reissue this Request for Proposal.
9. **Compliance of Proposal Offeror/Contractor Forms:** Any documents or forms (including separate Contract, maintenance agreement or training agreement) intended by the Offeror to be utilized in any resulting Contract, must be submitted with proposal. Any documents inconsistent with or taking exception to the terms, conditions, specifications and/or other requirements stated within this Request for Proposal may cause the proposal to be considered as nonresponsive and rejected. No documents will be considered unless submitted with vendor's proposal Offer and approved by the Procurement Office.
10. **Responsiveness to Specifications:** Performance or feature requirements which are designated as mandatory or minimums are needed in order to satisfy an identified task or performance need. A description is given for each designated feature. This description shall be used to determine if the Offeror's proposed product(s) and/or service(s) is/are capable of performing the function(s) specified in the Request for Proposal.

It is recognized that more than one method may be used to accomplish the sought-after task functionality. If Offeror has an alternate method of performing functional tasks, then Offeror shall list such method as an "alternate" and described in full detail within the proposal. The City shall be the sole judge as to whether any alternate methodology will be accepted.

"Must", "shall", "will", "minimum", "required" and/or "mandatory" performance/feature statements must be met or exceeded by the Offeror. Should no Offeror be found responsive to all designated Request for Proposal requirements, the City at its option, may either award the Contract to the most responsive Offeror or cancel the Request for Proposal and issue another Request for Proposal for the need under revised specifications.

General Instructions

11. **Questionnaire:** Offeror must complete the Questionnaire portion of this Request for Proposal and provide any documentation required to support the answers. Questionnaire items, which are designated as mandatory, are needed to satisfy a required task or performance criteria. Items, which may be listed as desirable, are not required to be responsive to the Request for Proposal and will be relatively evaluated against other proposals in making a final award decision.

If supporting documentation is required, Offeror shall provide the documentation in the sequence set forth in the Request for Proposal and ensure all technical literature and/or narrative explanations fully address the specifics of the question. Vague or disorganized responses that do not allow sufficient information for evaluation purposes may result in rejection of a proposal.

12. **Clarifications and Negotiations with Offerors and Revisions to Proposal:** Clarifications may be made with any submitting firm at any time during the evaluation phase of this procurement. Clarifications are not negotiations and may be utilized by the City to ensure thorough and complete understanding of, and responsiveness to, the solicitation requirements. Negotiations may be conducted with responsible Offerors who submit proposals determined to be reasonably susceptible of being selected for award. The purpose of negotiations is to allow the City and the Offeror(s) to revise initial Offers through an exchange or series of exchanges. Should the City elect to call for best and final offers, Offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiations and revision of proposals, and such revisions may be permitted after submissions and prior to award. In conducting clarifications and negotiations there shall be no disclosure of any information derived from proposals submitted by competing Offerors. The purposes of such negotiations shall include but not be limited to:

- A. Determine in greater detail such Offeror's qualifications;
- B. Explore with the Offeror the scope and nature of the project, the Offeror's proposed method of performance, and the relative utility of alternate methods of approach;
- C. Determine that the Offeror will make available the necessary personnel and facilities to perform within the required time; and
- D. Agree upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.

13. **Proposal Opening:** Proposals shall be opened at the time and place designated on the cover page of this Request for Proposals. The name of each Offeror and the identity of the Request for Proposal for which the proposal was submitted shall be publicly read and recorded in the presence of witnesses. Proposals, modifications and all other information received in response to this Request for Proposal shall be shown only to City personnel having a legitimate interest in its evaluation. Prices shall not be read. After Contract award, the proposals and the evaluation documentation shall be open for public inspection, except where the City has determined that specific portions of the proposal are confidential.

14. **Technical Proposal Opening:** Technical proposals (as received in step one of a two-step bidding process) shall be opened at the time and place designated on the cover page of this document. The name of each Offeror and the identity of the Request for Proposal for which the proposal was submitted shall be publicly read and recorded in the presence of witnesses. Proposals, modifications and all other information received in response to this Request for Proposal shall be shown only to City personnel having a legitimate interest in the evaluation. Evaluation documentation to substantiate technical proposal selection(s) shall be open for public inspection.

15. **Proposal Evaluation and Award:** The City shall determine whether a proposal meets the specifications and requirements of this Request for Proposal, at its sole discretion, and reject any proposals not meeting the intent or requirements set forth herein. Award(s) shall be made to the responsible Offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the Request for Proposal. The City shall be the sole judge as to the acceptability of the products and/or services offered. The City reserves the right to reject any and all proposals.

General Instructions

16. **Award of Contract:** A proposal shall constitute a binding Offer to Contract with the City based on the terms, conditions and specifications contained in this Request for Proposal. An Offeror shall become a Contractor only upon execution of a formal Contract from the Procurement Office. Unless this Request for Proposal includes separate Contract document(s) or requires the Offeror to submit a Contract for review, a Contract shall be formed when the Procurement Office provides a written notice of award or a purchase order to the successful Offeror. All terms and conditions of the Contract are contained herein, unless modified by an amendment approved by the City. Proposals that take exception to the terms, conditions, specifications and/or other requirements stated within this Request for Proposal may cause the vendor's Offer to be considered non-responsive and rejected. Exceptions will be evaluated on an individual basis to determine compliance with the purpose and intent of the terms and conditions stated within this solicitation. The City shall be the sole judge as to whether an exception complies with the general purpose and intent of any term, condition and/or specification set forth herein.
17. **Proposal Results:** Offerors may attend the scheduled proposal opening at which the name of each Offeror will be publicly read. All other information contained in the proposals shall be kept confidential until the Contract is awarded. After award of Contract, an appointment may be made with the Procurement Officer to review proposal documents. Formal Contract award results shall be placed on the Procurement Office web page (www.tempe.gov/procurement) and posted at the front counter of the Procurement Office at the time the Contract award is approved by the City Council. Award recommendations may also be viewed via the City Clerk's web site normally up to five (5) days prior to the scheduled City Council meeting by visiting (http://documents.tempe.gov/sirepub/?sort=meet_date).
18. **Protests:** Any actual or prospective Offeror who is aggrieved in conjunction with this Request for Proposal or award may protest the award to the Procurement Office. A protest based upon alleged improprieties in this Request for Proposal that are apparent before the proposal opening shall be filed prior to the proposal due date/time. A protest concerning an award recommendation must be filed within ten (10) business days after the date of award. Up to five (5) days before award of a contract, the Procurement Office will post award recommendations on the City Clerks website at (http://documents.tempe.gov/sirepub/?sort=meet_date) and at the Procurement Office front counter and web site for public review (www.tempe.gov/procurement). A protest shall be in writing and include the protester's name, address and phone number, identification of the solicitation or Contract being protested, a detailed statement of the legal and factual grounds of the protest, including copies of all relevant documents and the form of relief requested. A protest is to be on the protester's company letterhead and signed by the protestor or its authorized representative.
19. **Delivery:** All materials, equipment and/or products shall be delivered F.O.B. Destination to the City of Tempe Per the location identified in the solicitation.
20. **Tax:** Unless specified herein, sales, use or federal excise tax shall not be included in proposal pricing. The City is exempt from payment of federal excise tax. For proposal evaluation, transaction (sales) privilege tax paid to the City of Tempe (1.8%) is considered a pass-through cost, calculated as zero (\$0) expense when comparing pricing among competing companies that are not located in Tempe. For information on privilege (sales) tax, please contact the City's Tax and License Office at (480) 350-2955 or visit their web site at salestax@tempe.gov
21. **Payment:** For a single requirement purchase, the City will endeavor to remit payment within thirty (30) calendar days from receipt and approval of acceptable products, materials and/or services and approval of correct invoice. For ongoing term Contract purchases, the City will endeavor to remit payment within thirty (30) calendar days from approval of invoice.
22. **Discounts:** Payment discounts periods shall be computed from the date of receipt of acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed. Discounts shall be taken on the full amount of the invoice, unless otherwise indicated. The City shall be entitled to receive any discounts offered by Offeror, if payment is made within the discount period.
23. **Payment by City Procurement Card:** The Procurement Office may elect to remit payment through the use of a City procurement card. Each Offeror may indicate on the Vendor's Offer Page in this Request for Proposal its ability to accept City procurement card payments. The inability to accept payment by City procurement card will not disqualify a proposal.

General Instructions

24. **Code Governance:** Unless otherwise specified herein, the provisions of the Tempe City Code, Chapter 26A shall apply and govern this Request for Proposal.
25. **Public Record:** Proposals and all other documents submitted in response to this solicitation shall become the property of the City and shall be a matter of Public Record available for review following the Contract award. Material portions of the recommended Offer(s) as determined by the City may be posted to the City's web site up to five (5) days prior to the City Council meeting.
26. **Late Responses:** The Offeror assumes responsibility for having the Proposal submitted on time via e-mail to the address shown on the front page of this RFP. Any Offers received after the Solicitation Due Date and Time shall not be considered and will be returned to the Offeror. The Offeror assumes the risk of any delay in the electronic processing of the supplier's e-mail through both parties (Supplier and City) networks. Offerors must allow adequate time to ensure that the e-mail is timely received by the City at the designated e-mail address. All times referenced are Tempe, Arizona local times. Respondents agree to accept the time and date that is recorded on the received e-mail as the official time. Any e-mail submissions that are timed at 3:01 or later on the schedule due date will be considered late and not considered.
27. **Copying Responses:** The Offeror hereby grants the City permission to copy all parts of its Offer including, without limitation, any documents and/or materials copyrighted by the Offeror. The City's right to copy shall be for internal use in the evaluating the Offers.
28. **Confidential Information and Public Record:** After award of a Contract, proposals shall be available for public inspection, except to the extent that the withholding of information is required or permitted by law. Pursuant to A.R.S. § 35-214, and 41-1330 *et seq.*, all records relating to the Request for Proposal and Contract shall be subject to inspection at all reasonable times by the City for five (5) years after completion of the Contract. Such records shall be produced by Bidder or Contractor at the time and place designated by the City.
 - A. If a person believes that an offer or specification contains information that should be withheld as confidential, a statement advising the procurement officer of this fact shall accompany the submission and the information shall be so identified wherever it appears. A general statement of confidentiality that is not appropriately referenced to a specific section of the RFP will not be sufficient to warrant protection by the City. The confidential portion of the submission must be clearly noted with accompanying justification for treating the section confidential. Failure of the vendor to appropriately designate confidential information in this manner will relieve the City of any obligation to protect this information as confidential.
 - B. The information identified by the person as confidential shall not be disclosed until the Procurement Office makes a written determination pursuant to A.R.S. § 121, *et seq.*
 - C. If the City determines to disclose the information, the Offeror shall be informed in writing of such determination. Notwithstanding the foregoing, following an award of Contract, all proposal response information shall be available for public inspection.

Standard Terms and Conditions

Please note that these Standard Terms & Conditions shall be fully complied with by Offeror. Failure to comply with these requirements may result in rejection of a proposal for non-responsiveness, or cancellation or termination of any awarded Contract.

1. **Applicable Law:** This Contract shall be governed by, and the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code as adopted in the State of Arizona, except as otherwise provided in this Request for Proposal and resultant Contract, and all statutes, or ordinances pertaining specifically to the City. This Contract shall be governed by State of Arizona law and suits pertaining to this Contract may only be brought in courts located in Maricopa County, Arizona.
2. **Arizona Climate Action Compliance:** Offeror shall comply with all applicable standards, laws, rules, orders and regulations issued pursuant to A.R.S. §49-101, *et seq.*, including but not limited to, Arizona Executive Orders Nos. 2006-13, 2005-02, and 2010-14 with regard to reducing GHG emissions, increasing energy efficiency, conserving natural resources and developing renewable energy sources.
3. **Availability of Funds for the Next Fiscal Year:** The City's obligation for performance of the Contract is contingent upon the availability of City, state and federal funds that are allocated or appropriated for payment obligations of the Contract. If funds are not allocated by the City or available for the continued use or purchase of services, work and/or materials set forth herein, the City may terminate the Contract. The City will use reasonable efforts to notify Contractor of such non-allocation affecting the obligations of the Contractor and/or City. The City shall not be penalized or adversely affected for exercise of its termination rights. Further, the City shall in no way be obligated or liable for additional payments or other damages as a result of such termination. No legal liability on the part of the City for any payment may arise for performance under this Contract.
4. **Certification:** By signing the "Vendor's Offer", the Offeror certifies:
 - A. The submission of the vendor's proposal Offer response did not involve collusion or other anti-competitive practices.
 - B. Offeror agrees that it will comply with section 2-603(5) of the Tempe City Code ("TCC"), and will not refuse to hire or employ or bar or discharge from employment any person or discriminate against such person in compensation, conditions, or privileges of employment because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status. Offeror further agrees to provide a copy of its antidiscrimination policy to the Procurement Officer to demonstrate compliance with TCC section 2-603(5) or attest in writing to its compliance in accordance with the attached Affidavit of Compliance.
 - C. 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, or service to a public servant in connection with the submitted Offer. Failure to sign the "Vendor's Offer" or signing it with a false statement shall void the submitted proposal and any resulting Contract. In addition, the Offeror may be barred from future proposal and bidding participation with the City and may be subject to such further actions as permitted by law.
 - D. The Offeror agrees to promote and offer to the City only those materials and/or services as stated and allowed by this Request for Proposal and resultant Contract award. Violation of this condition shall be grounds for Contract termination by the City.
 - E. The Offeror expressly warrants that it has and will continue to comply in all respects with Arizona law concerning employment practices and working conditions, pursuant to A.R.S. § 23-211, *et seq.*, and all laws, regulations, requirements and duties relating thereto. Offeror further warrants that to the extent permitted by law, it will fully indemnify the City for any and all losses arising from or relating to any violation thereof.

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- F. Contractor agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Legal Arizona Workers Act (LAWA), and all amendments thereto, along with all attendant laws, rules and regulations. Contractor acknowledges that a breach of this warranty is a material breach of this Contract and Contractor is subject to penalties for violation(s) of this provision, including termination of this Contract. City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Contractor. Contractor hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.
- G. If Contractor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842. Unless and until the U.S. District Court, District of Arizona's injunction is lifted, A.R.S. § 35-393.01 is unenforceable.
5. **Commencement of Work:** Contractor is cautioned not to commence any work or provide any materials or services under the Contract until and unless Contractor receives a purchase order, Notice to Proceed, or is otherwise directed in writing to do so, by the City.
6. **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. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
7. **Termination for Conflict of Interest:** This Contract is subject to the cancellation provisions of A.R.S. § 38-511. The City may cancel this Contract within three (3) years after its execution, without penalty or further obligation, if any person significantly involved in initiating, securing, drafting, or creating the Contract for the City becomes an employee or agent of the Contractor.
8. **Contract Formation:** This Contract shall consist of this Request for Proposal and the vendor's proposal Offer submitted, as may be found responsive and approved by the City. In the event of a conflict in language between the documents, the provisions of the City's Request for Proposal shall govern. The City's Request for Proposal shall govern in all other matters not otherwise specified by the Contract between the parties. All previous contracts between the Offeror and the City are not applicable to this Contract or other resultant contracts. Any contracted vendor documents that conflict with the language and requirements of the City's solicitation are not acceptable and void the Contract.
9. **Contract Modifications:** This Request for Proposal and resultant Contract may only be modified by a written Contract modification issued by the Procurement Office and counter-signed by the Contractor. Contractors are not authorized to modify any portion of this solicitation or resulting Contract without the written approval of the Procurement Office and issuance of an official modification notice.
10. **Contract Administration:** Contractor must notify the designated Procurement Officer from the Procurement Office for guidance or direction on matters of Contract interpretation or problems regarding the terms, conditions or scope of this Contract. The Contract shall contain the entire agreement between the City and the Contractor and the Contract shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders or master agreements in any form.

Standard Terms and Conditions

11. **Cooperative Use of Contract:** Any Contract resulting from this solicitation shall be for the use of the City of Tempe. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tempe's Department of Procurement are eligible to participate in any subsequent Contract. Additionally, this Contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.mesaaz.gov/business/purchasing/save> for a listing of participating agencies. The parties agree that these lists are subject to change. Any such usage by other municipalities and government agencies must be in accord with the ordinance, charter and/or rules and regulations of the respective political entity.

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 agency. The City shall not be responsible for any disputes arising out of transactions made by others. Contractor shall be responsible for correctly administering this Contract in accordance with all terms, conditions, requirements, and approved pricing to any eligible procurement unit.
12. **Dispute Resolution:** This Contract is subject to arbitration to the extent required by law. If arbitration is not required by law, the City and the Contractor agree to negotiate with each other in good faith to resolve any disputes arising out of the Contract. In the event of any legal action or proceeding arising out of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred with said fees and costs to be included in any judgment rendered.
13. **Energy Efficient Products:** The City may consider energy conservation factors including costs in the evaluation of equipment and product purchases for the purpose of obtaining energy efficient products. In addition, vendor proposal Offers may specify items that have been given an energy efficient classification by the federal government for consideration by the City.
14. **Billing:** All invoices submitted by Contractor for the City's review and approval shall be in itemized form to identify the specific item(s) being billed. Items must be identified by the name, model number, and/or serial number most applicable along with the correct unit cost. Any purchase/delivery order issued by the City shall refer to the Contract number resulting from this Request for Proposal. Separate invoices are required on individual contracts or purchase orders. Only invoices with items resulting from this Request for Proposal will be accepted for review and approval by the City.
15. **Estimated Quantities:** This Request for Proposal references quantities as a general indication of the City's needs. The City anticipates considerable activity resulting from Contracts that will be awarded as a result of this Request for Proposal; however, the quantities shown are estimates only and the City reserves the right to increase or decrease any quantities actually acquired, in its sole discretion. No commitment of any kind is made concerning quantities and Offeror hereby acknowledges and accepts same.
16. **Events of Default and Termination:**
 - A. In the event a party is in default then the other party may, at its option and at any time, provide written notice to the defaulting party of the default. The defaulting party will have thirty (30) days from the receipt of the written notice to cure the default; the thirty (30) day cure period may be extended by mutual agreement of the parties, but no cure period may exceed ninety (90) days. A default notice will be deemed to be sufficient if it is reasonably calculated to provide notice of the nature and extent of such default. Failure of the non-defaulting party to provide written notice of the default does not waive any rights under the Agreement. The occurrence of any one or more of the following events shall constitute a material breach of and default under the Contract.
 - i) Any failure by Contractor to pay funds or furnish materials, services and/or goods that fail to conform to any requirement of this Contract or provide personnel that do not meet Contract requirements;

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- ii) Any party's failure to observe, perform or undertake any provision, covenant or condition of this Contract to be observed or performed by Contractor or City herein, including but not limited to failing to submit any report required herein;
- iii) Any failure to make progress in the performance required pursuant to the Contract and/or gives either party reason to believe that the other party cannot or will not perform to the requirements of the Contract; or,
- iv) Any failure of Contractor to commence construction, work or services within the time specified herein, and to diligently undertake Contractor's work to completion.

B. In the event the default has not been corrected to the non-defaulting party's satisfaction within the cure time specified, the non-defaulting party, at its option and in addition to any other remedies available by law or in equity, without further notice or demand of any kind to Contractor, may do the following:

- i) Terminate the Contract;
- ii) Pursue and/or reserve any and all rights for claims to damages for breach or default of the Contract; and/or,
- iii) Recover any and all monies due from Contractor, including but not limited to, the detriment proximately caused by Contractor's failure to perform its obligations under the Contract, or which in the ordinary course would likely result therefrom, including, any and all costs and expenses incurred by the City in: (a) maintaining, repairing, altering and/or preserving the premises (if any) of the project; (b) costs incurred in selecting and retaining a substitute Contractor for the purchase of services, materials and/or work; and/or (c) attorneys' fees and costs in pursuing any remedies under the Contract and/or arising therefrom.

C. The exercise of any one of the City's remedies as set forth herein shall not preclude subsequent or concurrent exercise of further or additional remedies. In addition, the City shall be entitled to terminate this Contract at any time, in its discretion. The City may terminate this Contract for default, non-performance, breach or convenience, or pursuant to A.R.S. § 38-511, or abandon any portion of the project for which services have not been fully and/or properly performed by the Contractor.

D. Termination shall be commenced by delivery of written notice to Contractor by the City personally or by certified mail, return receipt requested. Upon notice of termination, Contractor shall immediately stop all work, services and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease work pursuant to the Contract. Contractor shall not be paid for work or services performed or costs incurred after receipt of notice of termination, nor for any costs incurred that Contractor could reasonably have avoided.

E. The City, in its sole discretion, may terminate or reduce the scope of this Contract if available funding is reduced for any reason.

F. Whenever the City in good faith has reason to question Contractor's intent or ability to perform, the City may demand that Contractor give a written assurance of its intent and ability to perform. In the event that the demand is made, and no written assurance is given within the time period required, the City may treat this failure as an anticipatory repudiation of the Agreement.

17. **Termination for Convenience:** The City at its sole discretion may terminate this Contract for convenience with thirty (30) days advance notice to Contractor. Contractor shall be reimbursed for all appropriate costs as provided for within the Contract up to the termination date specified.

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18. **Force Majeure:**
- A. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under the Contract only in the event that and to the extent that such party's performance of the Contract is prevented by reason of force majeure. 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, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions, failures or refusal 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.
 - B. Force majeure shall not include the following occurrences:
 - i) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
 - ii) Late performance by a subcontractor.
 - C. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours of the commencement thereof and shall specify the causes of such delay in the notice. Such notice shall be hand delivered or sent via certified mail and shall make a specific reference to this clause, 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 by hand delivery or certified mail 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 the results or effects of such delay prevent the delayed party from performing in accordance with the Contract.
19. **Gratuities:** The City may elect to terminate any resultant Contract, if it is found that gratuities in any form were offered or given by the Contractor or agent thereof, to any employee of the City or member of a City evaluation committee with a view toward securing an order, securing favorable treatment with respect to awarding, amending or making of any determinations with respect to performing such order.
20. **Indemnification:** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, officer, officials, and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees, court costs, and the costs of appellate proceedings), arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work, services, or professional services of the Contractor, its agents, employees, or any other person (not the City) for whose acts, errors, mistakes, omissions, work, services, or professional services the Contractor may be legally liable in the performance of this Contract. Contractor's duty to hold harmless and indemnify the City, its agents, officers, officials and employees shall arise in connection with any claim for damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of any person or property, including loss of use resulting from, or caused by any acts, errors, mistakes, omissions, work, services, or professional services in the performance of this Contract by Contractor or any employee of the Contractor or any other person (not the City) for whose acts, errors, mistakes, omissions, work, or services the Contractor may be legally liable. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of indemnity in this paragraph. This provision shall survive the term of this Contract.
21. **Interpretation of Parole Evidence:** This Contract is intended as a final expression of the agreement between the parties and as a complete and exclusive statement of the Contract, unless the signing of a subsequent Contract is specifically called for in this Request for Proposal. 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 acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of the Contract, even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

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22. **Key Personnel:** Contractor shall provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract during the Contract term and any renewal periods. The Contractor must agree to assign specific individuals to the key positions.
- A. The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without prior written notice to the City.
- B. If key personnel are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall replace each person with personnel of substantially equal ability and qualifications upon prior City approval.
23. **Licenses and Permits:** Contractor shall maintain in current status and at its sole expense, all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor and the provision of the services to be provided under the Contract.
24. **No Assignment:** No right or interest in this Contract shall be assigned by Contractor and no delegation of any duty of Contractor shall be made without prior written permission of the City, which consent may be granted or withheld in City's unfettered discretion.
25. **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 provision collectively called "Notices"), shall be in writing and shall be hand delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

City of Tempe Procurement Office
Attn: Procurement Officer
20 E. 6th Street (Second Floor)
PO Box 5002
Tempe, Arizona 85280

[Contractor's Name]
[Attn of Offeror Named in Contract]
[Address]

Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder.

26. **No Waiver:** No breach of default hereunder shall be deemed to have been waived by the City, except by written instrument to that effect signed by an authorized agent of the City. No waiver of any such breach or default shall operate as a waiver of any other succeeding or preceding breach or default or as a waiver of that breach or default after demand by the City for strict performance of this Contract. Acceptance of partial or delinquent payments or performance shall not constitute the waiver of any right of the City. Acceptance by the City for any materials shall not bind the City to accept remaining materials, future shipments or deprive the City of the right to return materials already accepted. Acceptance by the City of delinquent or late delivery shall not constitute a waiver of a later claim for damages and/or bind the City for future or subsequent deliveries.
27. **Overcharges by Antitrust Violations:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the City. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and/or services used to fulfill the Contract.
28. **Performance Standards:** Equipment shall operate in accordance with the performance criteria specified in the Request for Proposal, including the manufacturer's published specifications applicable to the equipment involved. Equipment is expected to be available for productive use, as provided in the procurement documents. Penalties and/or bonuses applicable to equipment and system performance, if any, shall be calculated as specified in the Request for Proposal.

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29. **Preparation of Specifications by Persons Other Than City Personnel:** No person preparing specifications for this Request for Proposal shall receive any direct or indirect benefit from the use of these specifications.
30. **Procurement of Recycled Materials:** If the price of recycled material that conforms to specifications is within five percent (5%) of the lower priced material that is not recycled and the recycled Offeror is otherwise the lowest responsive and responsible Offeror, the proposal containing recycled material shall be considered more advantageous; provided the item(s) to be obtained contains at least the minimum amount of recycled content material as defined in the City's solicitation and sufficient funds have been budgeted for the purchase.
31. **Provisions by Law:** Each and every provision of law and any clause required by law to be in this Contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract will forthwith be physically amended to make such insertion or correction.
32. **Public Record:** After award of Contract, proposal responses shall be considered Public Record and open for public inspection except to the extent the withholding of information is permitted or required by law. If an Offeror believes a specific section of its proposal response is confidential, the Offeror shall mark the page(s) confidential and isolate the pages marked confidential in a specific and clearly labeled section of its proposal response. The Offeror shall include a written statement as to the basis for considering the marked pages confidential and the Procurement Office will review the material and make a determination, pursuant to A.R.S. §§ 39-121, *et seq.*, and 41-151, *et seq.* A general statement of confidentiality (boiler plate statement) that is not appropriately referenced to a specific section of the RFP will not be sufficient to warrant protection by the City. The confidential portion of the submission must be clearly noted with accompanying justification for treating the section confidential. Failure of the vendor to appropriately designate confidential information in this manner will relieve the City of any obligation to protect this information as confidential.
33. **Records:** Pursuant to provisions of Title 35, Chapter 1, Article 6 Arizona Revised Statutes §§ 35-214 and 36-215, Contractor shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All such documents shall be subject to inspection and audit at reasonable times. Upon request, a legible copy of any or all such documents shall be produced at the offices of the City Attorney or Procurement Office.
34. **Relationship of Parties:** It is clearly understood that each party to this Contract will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other party. The Contractor is an independent Contractor and shall be solely responsible for any unemployment or disability insurance payments, or any social security, income tax or other withholdings, deductions or payments that may be required by federal, state or local law with respect to any compensation paid to the Offeror. An employee or agent of one party shall not be an employee or agent of the other party for any purpose whatsoever.
35. **Rights and Remedies:** No provisions of this Request for Proposal or in the proposal shall be construed, expressly or by implication, as a waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of Contract. The failure of the City to insist upon strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, shall not release the Contractor from any responsibilities or obligations imposed by the Contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.
36. **Safety Standards:** All items supplied on this Contract must comply with the current applicable Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards.
37. **Serial Numbers:** Proposals shall include equipment on which the original manufacturer's serial number has not been altered in any way. The City reserves the right to reject any and all equipment.

Standard Terms and Conditions

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 invalid provision or application.
39. **Specially Designated Nationals and Blocked Persons List:** Contractor represents and warrants to the City that neither Contractor nor any affiliate or representative of Contractor:
- A. Is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order no. 13224, 66 Fed. Reg. 49079 ("Order");
 - B. Is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s);
 - C. Is engaged in activities prohibited in the Order; or,
 - D. Has been convicted, pleaded *nolo contendere*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.
40. **Time of the Essence:** Time is and shall be of the essence in this Contract. If the delivery date(s) specified herein cannot be met, Contractor shall notify the City using an acknowledgment of receipt of order and intent to perform without delay, for instruction. The City reserves the right to terminate this Contract and to hold Contractor liable for any cost of cover, excess cost(s) or damage(s) incurred as a result of delay.
41. **Unauthorized Firearms & Explosives:** No person conducting business on City property is to carry a firearm or explosive of any type. All Offerors, Contractors and subcontractors shall honor this requirement at all times and failure to honor this requirement shall result in Contract termination and additional penalties. This requirement also applies to any and all persons, including those who maintain a concealed weapons permit. In addition to Contract termination, anyone carrying a firearm or explosive device will be subject to further legal action.
42. **Warranties:** Contractor expressly warrants that all materials and/or goods delivered under the Contract shall conform to the specifications of this Contract and be merchantable and free from defects in material and workmanship, and of the quality, size and dimensions specified herein. This express warranty shall not be waived by way of acceptance or payment by the City, or otherwise. Contractor expressly warrants the following:
- A. All workmanship shall be finest and first-class;
 - B. All materials and goods utilized shall be new and of the highest suitable grade for its purpose; and
 - C. All services will be performed in a good and workmanlike manner. Contractor's warranties shall survive inspection, acceptance and/or payment by the City, and shall apply to the City, its successors, agents and assigns.

The Contractor agrees to make good by replacement and/or repair, at its sole expense and at no cost to the City, any defects in materials or workmanship which may appear during the period ending on a date twelve (12) months after acceptance by the City, unless otherwise specified herein. Should Contractor fail to perform said replacement and/or repair to City's satisfaction within a reasonable period of time, City may correct or replace said defective or nonconforming materials and recover the costs thereof from Contractor. This warranty shall not operate to reduce the statute of limitations period for breach of contract actions or otherwise, or reduce or eliminate any legal or equitable remedies.

Standard Terms and Conditions

43. **Work for Hire and Ownership of Deliverables:** Contractor hereby agrees and covenants that all the results and proceeds of Contractor's work and/or services for the Project specified herein, for Contractor and all of its agents, employees, officers and subcontractors, shall be owned by the City, including the copyright thereto, as work for hire. In the event, for any reason such results and proceeds are not deemed work for hire, Contractor agrees and covenants that it shall be deemed to have assigned to the City all of its right, title and interests in such results, proceeds and content to the City, without limitation. Contractor agrees to indemnify and hold the City harmless from and against all claims, liability, losses, damages and expenses, including without limitation, legal fees and costs, arising from or due to any actual or claimed trademark, patent or copyright infringement and any litigation based thereon, with respect to any work, services and/or materials contemplated in this Contract. Contractor agrees to pay to defend any and all such actions brought against the City. Contractor's obligations hereunder shall survive acceptance by the City of all covenants herein as well as the term of the Contract itself.
44. **Non-exclusive Contract:** Any Contract resulting from this Request for Proposal shall be awarded with the understanding and agreement that it is non-exclusive and entered into for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source.
45. **Ordering Process:** Upon award of a Contract by the Procurement Office, the City may procure the specific material and/or service awarded by the issuance of a purchase order to the appropriate Contractor. Each purchase order must cite the correct Contract number. Such purchase order is required for the City to order and the Contractor to deliver the material and/or service.
46. **Shipping Terms:** Prices shall be F.O.B. Destination to the delivery location(s) designated herein. 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. The City will notify the Contractor promptly of any damaged materials and shall assist the Contractor in arranging for inspection. Shipments under reservation are prohibited. No tender of a bill of lading shall operate as a tender of the materials.
47. **Delegated Awards:** In the event this Contract is administratively awarded via delegated authority as provided for in Section 26A-5 of the Procurement Ordinance, the Contractor acknowledges that a final Contract with the City of Tempe requires City Council approval and possibly the signature of the Mayor. Should this Contract be rejected by the City Council, Contractor agrees that it is immediately void and unenforceable against any party. The awarded firm(s) will be compensated only for any and all costs incurred up to the date of notification of such termination.

Special Terms & Conditions and Instructions

Proposals taking exception to Special Terms & Conditions and Instructions stated within this Request for Proposal may cause the Proposal to be considered nonresponsive and rejected.

1. **City Procurement Document:** This Request for Proposal is issued by the City. No alteration of any portion of this Request for Proposal by an Offeror is permitted and any attempt to do so shall result in vendor's proposal Offer being considered nonresponsive and rejected. No alteration of any portion of a resultant Contract is permitted without the written approval of the Procurement Office and any attempt to do so shall be considered a breach of the Contract. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, Contract termination and/or suspension of the Contractor.
2. **Offer Acceptance Period:** To allow for an adequate evaluation, the City requires the vendor's proposal Offer in response to this Request for Proposal to be valid and irrevocable for ninety (90) days after the proposal due time and date.
3. **Contract Type:** Term with justifiable price adjustments allowed, indefinite quantity.
4. **Term of Contract:** The term of the Contract shall commence on the date of award and shall continue for a period of one (1) year thereafter, unless terminated, canceled or extended as otherwise provided herein.
5. **Contract Renewal:** The City reserves the right to unilaterally extend the period of any resultant Contract for ninety (90) days beyond the stated term. In addition, the City at its option may renew for supplemental terms of up to a maximum of five (5) additional years. The period for any single renewal increment shall be determined by the Procurement Office. Such increment shall not be for more than a period of one (1) year each, unless the City is eligible to obtain a significant cost and/or supply advantage by a longer Contract renewal period.
6. **Price Adjustment:**
 - A. The Procurement Office will review fully documented requests for price increases after the Contract has been in effect for twelve (12) months. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the Proposal and can be shown to directly affect the price of the item concerned. The Procurement Office will determine whether the requested price increase, or an alternative option, is in the best interest of the City. Advanced thirty (30) day written notification by Contractor is required for any price changes. All price adjustments will be effective on the first day of the month following approval or acceptance by the Procurement Office. After the City approves a price increase the Contractor shall not be eligible to receive an additional increase until twelve (12) months from the date of the last approved price increase.
 - B. Price increase requests must be acknowledged in writing by the Procurement Office before becoming effective. If not acknowledged within thirty (30) days, Contractor shall contact the Procurement Office to ensure the price increase request was received.
 - C. The Contractor shall offer any published price reduction or if applicable to the Contract, profit sharing price advantage to the City concurrent with its announcement to other customers. A price reduction or profit-sharing price advantage may be offered at any time during the term of an awarded Contract and shall become effective upon notice and acceptance. The City shall likewise be given any special sales discounts offered to the general public, which exceed contracted price discounts extended to the City by the Contractor.
7. **Multiple Awards:** The City has a large number and variety of potential customer departments. In order to ensure that any ensuing Contracts will allow the City to fulfill current and future requirements, the City reserves the right to award Contracts to multiple companies. The actual utilization of any Contract will be at the sole discretion of the City. The fact that the City may make multiple awards should be taken into consideration by each Offeror.

Special Terms & Conditions and Instructions

8. **Warranty:** Each proposal must include a complete and exclusive statement of the product warranty. Warranty offers will be relatively considered as appropriate to life cycle costing.
9. **Demonstration Models:** Demonstration units of the equipment offered must be available in the Tempe/Phoenix geographic area. The Procurement Office may arrange a time and place for equipment demonstrations for the purpose of evaluation. Demonstrations shall be performed at no expense to the City.
10. **Current Products:** All Offers made in response to this Request for Proposal 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 user environments and shall meet or exceed all specifications and requirements set forth in this solicitation. Enhancements to established products need not necessarily comply with this clause and will be reviewed on individual merits.
11. **Product Discontinuance:** The City may award Contracts for particular products and/or models of equipment as a result of this solicitation. In the event that a product or model is discontinued by the manufacturer, the City at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request permission by the City to substitute a new product or model and provide all of the following:
 - A. A formal announcement from the manufacturer that the product or model has been discontinued;
 - B. Documentation from the manufacturer that names the replacement product or model;
 - C. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation;
 - D. 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; and
 - E. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.
12. **Maintenance Service:** Contractor covenants and agrees to maintain the equipment set forth in the Request for Proposal, or alternatively, warrants that the equipment manufacturer will maintain the equipment acquired under the Contract in good working order and in accordance with the manufacturer's official published specifications and any other specifications set forth herein. Additional terms and conditions applicable to maintenance of the equipment may be specified in a separate maintenance agreement between the City and the Contractor or equipment manufacturer. In no event shall the provisions of such separate agreement supersede the provisions of the Contract.
13. **Installation and Training:** The Contractor shall install the equipment and provide training to City personnel to ensure proper operation and utilization.
14. **Installation and Acceptance:**
 - A. **Installation Date:** The Contractor shall install equipment ready for use on or before the installation date specified in the applicable schedule.
 - B. **Site Preparation:** The City shall have the site available and prepared in a timely manner in accordance with Contractor published specifications. The Contractor shall be given access to the site for installation and testing purposes.
 - C. **Site Inspection:** Prior to the installation date, Contractor shall inspect the site and shall report to the City, in writing, the dates of such inspections, any rejections and the reasons therefore, and the final acceptance thereof. Such final site acceptance shall include a written representation to the City by the Contractor that the site meets the Contractor's and/or equipment manufacturer's site specifications for the efficient and safe operation of the equipment.

Special Terms & Conditions and Instructions

- D. Acceptance Testing: When Contractor has completed installation and is satisfied that the equipment is operating successfully and meets minimum design capabilities, the City shall be so notified. The City may accept or reject any portion or all of the equipment.
- E. Acceptance: At the conclusion of the acceptance testing period, the City's acceptance may be conclusively presumed if a written rejection specifying the reasons therefore is not delivered to Contractor within ten (10) business days following the end of the acceptance testing period.
15. **Contractor's Risk**: Contractor agrees to bear all risk of loss, injury, or destruction of materials (equipment/products) ordered as a result of this Contract which occurs prior to delivery to the City; and such loss, injury, or destruction shall not release Contractor from any obligation hereunder.
16. **Insurance**:
- A. Insurance Required: Prior to commencing services under this Contract, Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries (including death) to persons and damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees, subcontractors, or sub-subcontractors. For Offerors with self-insurance, proof of self-insurance with minimum limits expressed below must be submitted on proper forms for evaluation prior to award of Contract.
- A Contract Award Notice or Purchase Order will not be issued to the Contractor until receipt of all required insurance documents by the Procurement Office with such documents meeting all requirements herein. In addition, before any Contract renewal, all required insurance must be on file with the Procurement Office. Contractor must submit required insurance within ten (10) calendar days after request by the Procurement Office or the award may be rescinded and another Offeror selected for award.
- B. Minimum Limits of Coverage: Without limiting any obligations or liabilities, the Contractor, at its sole expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance and with forms satisfactory to the City. Each insurer shall have a current A.M. Best Company, Inc., rating of not less than A-VII. Use of alternative insurers requires prior approval from the City.
- i. Minimum Limits of Insurance. Contractor shall maintain the following minimum limits:
- a. Commercial General Liability
- Commercial general liability insurance limit of not less than \$1,000,000 for each occurrence, with a \$2,000,000 general aggregate limit. The general aggregate limit shall apply separately to the services under this Contract or the general aggregate shall be twice the required per occurrence limit. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual coverage, including but not limited to the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office policy form CG0001 or its equivalent.
- In the event the general liability policy is written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the services as evidenced by annual certificates of insurance. In addition, the retro date shall be no later than the start date of the contract. The retro date shall be disclosed on the certificate of insurance.
- Such policy shall contain a "severability of interests" provision.
- b. Worker's Compensation
- The Contractor shall carry worker's compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance

Special Terms & Conditions and Instructions

of services; and employer's liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

In cases when services are subcontracted, the Contractor will require the subcontractor to provide worker's compensation and employer's liability to at least the same extent as provided by Contractor.

c. Automobile Liability

Commercial business automobile liability insurance with a combined single life or bodily injury and property damages of not less than \$1,000,000 per accident regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor services. Coverage will be at least as broad as coverage Code 1 "any auto". Insurance Service Office policy form CA0001 Y87 or any replacements thereof. Such coverage shall include coverage for loading and unloading hazards.

- C. Additional Insured: The insurance coverage, except for workers compensation and professional liability coverage, required by this Contract, shall name the City, its agents, representatives, directors, officials, employees, and officers, as additional insureds, and shall specify that insurance afforded the Contractor shall be primary insurance. The additional insured wording on the commercial general liability policy will be at least as broad as Insurance Services Office policy forms CG2010 04/13 edition and CG2037 04/13 edition or their equivalent. The additional insured wording on the automobile liability policy will be at least as broad as Insurance Services Office policy form CA 20 48 or its equivalent. This provision and the naming of the city as an additional insured shall in no way be construed as giving rise to responsibility or liability of the City for applicable deductible amounts under such policy(s).
- D. Coverage Term: All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted by the City. Failure to do so shall constitute a material breach of this Contract.
- E. Primary Coverage: Contractor's insurance shall be primary insurance to the City, and any insurance or self-insurance maintained by the City shall not contribute to it.
- F. Claim Reporting: Any failure to comply with the claim reporting provisions of the policies or any breach of a policy warranty shall not affect coverage afforded under the policy to protect the City.
- G. Waiver: The policies, including workers' compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, representatives, directors, officers, and employees for any claims arising out of the work or services of the Contractor.
- H. Deductible/Retention: The policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be disclosed by the contractor and shall not be applicable with respect to the coverage provided to the City under such policies. Contractor shall be solely responsible for deductible and/or self-insurance retention and the City, at its option, may require Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- I. Certificates of Insurance: Prior to commencing work or services under this Contract, Contractor shall furnish the City with certificates of insurance, or formal endorsements as required by the Contract, issued by the Contractor's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Contract are in full force and effect. Such certificates shall identify this Contract number or name and shall provide for not less than thirty (30) days advance notice of cancellation, termination, or material alteration. Such certificates shall be sent directly to: Contract Administrator, City of Tempe, P. O. Box 5002, Tempe, AZ 85280.
- J. Copies of Policies: The City reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the above policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements,

Special Terms & Conditions and Instructions

and such receipt shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.

17. **Contract Submittal:** Offeror is to furnish a copy of its proposed Contract with its proposal response. Contractual considerations are an important evaluation factor and will be considered in making an award decision. Any proposed Contract should be tailored to the specific requirements of the City's Request for Proposal and overall conformity with the City's Request for Proposal requirements. The failure of an Offeror to reach an acceptable Contract to the satisfaction of the City will result in proposal rejection.
18. **Software License:** The Contractor grants to the City a non-assignable, non-transferable and non-exclusive license to use the proprietary computer programs and related materials (software) specifically identified in the appropriate schedule to this Contract. The City understands and acknowledges that the software contains confidential information and other data proprietary to Contractor. The City agrees not to disclose, proliferate or duplicate nor allow to be disclosed, proliferated or duplicated any such confidential information or data except for archive, diagnostic, backup or emergency restart purposes. However, if confidential proprietary information of the Contractor, as determined by the City and the Contractor, is requested from the City pursuant to a public records request, subpoena or other process, Contractor shall be responsible for protecting its confidential information, shall be responsible for representing itself and the City with the City retaining the right to approve the selection of any attorneys hired to defend its interests, in any resulting legal actions and shall be responsible for any and all costs in so doing, including the payment of attorneys' fees, court costs and other expenses as may be required in protecting such information and in representing itself and the City.
19. **Protection and Restoration of Property and Landscape:** The Contractor shall be responsible for all damage or injury to public or private property of any character, during the prosecution of the work resulting from any act, omission, neglect, or misconduct in its manner or method of executing the work or at any time due to defective work or materials. The Contractor's responsibility will not be released until the project has been completed and accepted.

If damage is caused by the Contractor, the Contractor shall restore at no cost to the City, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or they shall make good such damage or injury in an acceptable manner. Further payments will be withheld until the City has inspected the corrected damage or injury and has signed-off the completion and acceptance. Contractor shall not dump spoils or waste material on private or public property without first obtaining from the owner written permission for such dumping.
20. **Sub-Contractor(s):** The City reserves the right to approve all sub-contractors. Contractor is responsible for all actions of sub-contractors. Contractor shall name sub-contractors as additionally insured, in addition to the City on all required insurance documents.
21. **Use of Safety Vests and Orange Colored Shirts:** The Contractor will follow the City code on the use of high visibility vests and clothing as specified below: The Tempe City Code addresses this matter in Section 29-4. Working within right-of-way

(a) For the purposes of this section, the following words or phrases shall have the meanings respectively ascribed to them by this subsection:

- 1) Motor vehicle means any vehicle required to be licensed or registered under the laws of the state.
- 2) Protective devices include, but are not limited to, orange vest (daytime), reflectorized orange vest (nighttime), traffic cones, barricades, flashing lights, flares and any other traffic-control device as required by the City.
- 3) Right-of-way means all of that property used as a traveled portion of public roadways for motor vehicles lying between the exterior boundary lines of any area granted to or received by the City by grant, gift, easement, deed, dedication or operation of law for street purposes.

Worker means any person whose duties cause his presence in the right-of-way.

Special Terms & Conditions and Instructions

- (a) No person shall perform any work within the right-of-way until he is properly equipped with protective devices.
- (b) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and punishable as set forth in subsection 1-7 of this code.
- (c) Following are a list of circumstances relative to the use of orange vests and/or orange shirts:
 - 1) According to the City Code, orange shirts are acceptable for daytime use providing the color is still bright and crisp. It is up to each supervisor to determine whether the color is still appropriate or not.
 - 2) Orange shirts are not recommended for those who are qualified and certified to direct traffic. Those who have received training to manually direct traffic from the Tempe Police Department are called Manual Traffic Directors. When directing traffic, orange vests are required for higher visibility. This also applies to certified flaggers at flagger stations. These persons do not direct traffic in the roadway. They are off the traveled portion of the roadway, behind barricading and stationary at an identified flagger station. However, vests and hardhats are required for higher visibility.
 - 3) Reflectorized vests, that meet ANSI standards, are to be worn when performing any work-related activity within the public right-of-way during the hours from dusk to dawn (sunset to sunrise). The current City approved vests meet the current ANSI standards.
- (e) These requirements apply to all persons; City personnel (including the police and fire department), contractors, utility companies and any subcontractor or employee hired to perform work within public right-of-way. Keep in mind that public right-of-way includes, not only the roadway itself, but also the sidewalk and usually 3 feet to 8 feet or more of landscape area behind the sidewalk.
- (f) Just a note for supervisors or foremen who may be visiting a job site for just a few minutes or more, to talk with fellow coworkers: An orange shirt or vest is required when one exits their vehicle, depending on the time of day.

22. **Traffic Operations on Roadways/Thoroughfares:** Any and all work carried out on adjacent roadways and thoroughfares will use the appropriate traffic barricading as set forth in the City of Phoenix TRAFFIC BARRICADE MANUAL published by the Street Transportation Department as adopted by the City of Tempe. Any and all pruning operations must comply with the safety standards set forth in ANSI 133. 1. All traffic control and lane closures shall be presented as a written plan to City of Tempe Traffic Engineering (480-350-8219) of the Transportation Division.

Short term operations are allowed under Chapter 9 of the City of Phoenix Traffic Barricade Manual; however, the City of Tempe has revised this policy to allow for short duration work up to thirty (30) minutes.

Non-compliance of any safety or related items within this Contract will result in a deficiency of performance deduction of a minimum of \$100 from the City payment made to the Contractor.

Scope of Work

Automated License Plate Recognition (ALPR) Solution Fixed Camera Location

PURPOSE

The purpose of this Request for Proposal (RFP) is to develop term contract with a qualified company to provide an Automated License Plate Recognition (ALPR) solution that is installed at fixed locations on designated City traffic and light poles to assist the Tempe Police Department in fighting crime, pursuing investigations, and ensuring community safety. This RFP seeks the initial provision of 10 cameras, license plate reading software, installation services, mobile broadband connections, device management and cloud storage. Additional cameras may be purchased at any time during the term of contract. The City prefers a solution where it retains no ownership in the cameras and all usage fees are included as an annual fee per camera. The successful company (Contractor) will also be responsible for complete installation, maintenance, and re-location of the camera solution. Alternate solutions that provide camera ownership to the City may be submitted as well.

BACKGROUND

The City of Tempe is located in the center of the Phoenix metropolitan area. Tempe is bordered by Phoenix to the West, Mesa to the East, Scottsdale to the North and Chandler to the South. Tempe is the most densely populated large city in the state of Arizona and is home to Arizona State University. Tempe has a population of 190,000 people within a 40 square-mile area that is connected to four major freeways. The Police Department includes 350 sworn officers.

ALPR FUNCTION

ALPR cameras scan license plates of vehicles that pass through a designated fixed location. The solution compares the scanned plate against the existing database of plates of interest to law enforcement – for example stolen vehicles and vehicles registered to owners with open warrants. ALPR technology has the capability to scan thousands of vehicles each day. When the system recognizes a match, a signal alerts the Officer to proceed with further confirmation, investigation, or actions as appropriate. An additional benefit of the solution is the capability to capture vehicle information including make, model and condition of vehicle (damage, etc.).

Applications for the Tempe Police Department include:

- To alert law enforcement of license plates in Amber Alert incidents.
- To alert law enforcement of plates related to active warrants.
- To alert law enforcement of license plates which belong to sex offenders around schools and Playgrounds.
- To prevent and suppress crime, apprehend offenders, and recover stolen property.
- To alert law enforcement of license plate numbers related to crimes in progress and time sensitive pursuit of criminal suspects.
- To provide information on the type of vehicle and condition of vehicle.
- Narcotics trafficking and illegal drug enforcement.
- Homeland security and interoperability with partner law enforcement.
- To assist both Tempe and its partner law enforcement investigators in crime analysis and correlations between suspect vehicle location with crime scenes, particularly critical since criminals do not recognize boundaries, and may often live outside the Tempe area.

Scope of Work

PERFORMANCE REQUIREMENTS

Responding companies shall indicate their compliance or deviation in the right column for the following preferred performance requirements (All elements noted below are considered preferred):

	<u>GENERAL REQUIREMENTS</u>	
	<u>Performance Requirement</u>	<u>Company's Response</u>
1.	The Contractor must provide variants of the Optical Character Recognition (OCR) Engine that are tailored/designed for a specific country, state or region of interest.	
2.	As part of the Contractor's system maintenance agreement with the customer, Optical Character Recognition (OCR) updates and/or revisions must be reasonably provided to address changes in the state's license plates during the term of the maintenance agreement.	
3.	The system must have the capability to capture vehicle license plates with license plate capture and read accuracy rates in excess of 90% for machine readable plates.	
4.	The system must provide effective license plate capture at night with no external lighting required. The usage at night shall not disclose the presence of the cameras (such as any triggered lighting, flash, red signal light, etc.)	
5.	After award of contract, all hardware and software for the initial 10 camera system shall be delivered, installed and made operational as soon as possible. It is preferred to have the solution installed and operational within 6 to 8 weeks of order.	
6.	It is preferred that each camera system is capable of capturing date/time of capture, direction of travel of entity captured, vehicle make, and any additional vehicle details at the time of capture to include condition of vehicle (damage).	
7.	National Crime Information Center (NCIC) alerts from camera system must be relayed to Tempe Police within 60 seconds.	
8.	The Contractor shall provide system training as needed in coordination with the installation of the equipment.	
9.	The Contractor must provide system installation according to the Tempe Police requirements (location) and provide relocation of camera(s). It is anticipated that mounting locations will be to existing signal and lighting poles. However, Contractor shall have the capability to install a custom pole configuration, if necessary.	

Scope of Work

	<u>HARDWARE SPECIFICATIONS</u>	
10.	The system must be primarily comprised of self-illuminating infrared (IR) cameras for effective license plate image capture in a variety of weather and lighting conditions.	
11.	The cameras must be capable of producing high quality images regardless of weather or lighting conditions.	
12.	All camera mounting bracket systems must be fabricated to support the Contractor's cameras and must be furnished by the Contractor.	
13.	The cameras must have a fixed focal point or target distance from the camera to the vehicle license plates from 10 feet to 50 feet.	
14.	It is preferred that all camera systems are solar powered.	
	<u>SERVER SOFTWARE SPECIFICATIONS</u>	
15.	The system must allow for an administrator to easily import users from their Active Directory, assign these users to a Group, and establish a password. Ideally, the system will integrate with Active Directory for single sign-on.	
16.	The system must provide the System Administrator with the ability to define and configure custom roles with various access privileges based upon user responsibilities.	
17.	The system should allow the administrator to view users currently logged into the system, and disconnect users as needed.	
18.	The system must provide the ability to query for license plate data based upon time, date, location and the user.	
19.	The system shall allow for remote user setup, and networking capabilities, to facilitate querying and data sharing across agencies and jurisdictions.	
20.	The client application for networked PC's and laptops must be a zero-administration installation from a web page residing on the server.	
21.	Data and images stored in the system should have the capability to be printed as determined by the System Administrator.	
22.	The system must provide a method for automatically purging data at the device level, based upon the System Administrator's specifications.	

Scope of Work

23.	The system shall be a cloud-based solution, compatible to interface with other agencies and other ALPR systems and databases.	

Proposal Questionnaire

“Return this Section with your Response”

Questionnaire responses and supporting documentation provided will be used to evaluate the proposal. In order to evaluate an Offeror's overall experience and competence to perform the Scope of Work described herein, the City may rely on additional resources beyond the information provided.

General Information Questionnaire

Item	Question	Response
1.	Provide a brief overview of the company to include its history, location, years in operation, legal formation, and general scope of services provided, etc.	
2.	Identify the key contact person that will be responsible for the overall management of this contract to include brief background and contact information.	
3.	How long has your company been providing ALPR solutions?	
4.	How many law enforcement entities in the U.S. are using your ALPR product?	
5.	How many law enforcement entities in Arizona are using your ALPR product?	
6.	Provide an overview the ALPR solution being proposed.	
7.	Describe all of the image capture capabilities of the solution proposed regarding vehicle information (license plate, make, damage, etc.)	
8.	Can the solution capture paper licenses?	
9.	Can the solution capture information from vehicles with no license plate?	
10.	How many lanes of traffic can a single camera capture simultaneously?	
11.	What is the power source used to operate the camera solution?	
12.	Describe the camera being proposed to include pixels, weight, dimensions, etc. (include photos)	

Proposal Questionnaire

“Return this Section with your Response”

13.	How many vehicles can be captured per day by a single camera?	
14.	Does your solution utilize a Cloud storage solution?	
15.	Can your solution be integrated with Axon Evidence.com	
16.	Describe the quality of the Web based footage retrieval and what Tempe Police staff can view.	
17.	Describe the camera mounting bracket system to be utilized.	
18.	How far can a camera be placed from the traffic focal point and still function as fully described?	
19.	Will your company install the cameras to mutually agreed site locations?	
20.	Describe the methodology used to secure the cameras to the pole structure.	
21.	Will your company take down the installed cameras and re-install at new mutually agreed locations?	
22.	Will the firm agree to provide a number of “no cost” relocations as part of their offer? If so, please describe the offer.	
23.	Describe the maintenance to be performed on the installed cameras.	
24.	Can the cameras capture images day and night?	
25.	Describe how the cameras will avoid detection at night when triggered.	
26.	Describe the conditions that might negatively impact the ability of the cameras to properly read vehicle plates.	
27.	What storage solution does your company use to secure captured images?	
28.	How long is that data available to Tempe Police?	
29.	How quickly does the solution notify Tempe Police staff once a license plate match is made?	

Proposal Questionnaire

“Return this Section with your Response”

30.	Describe the license plate data base that your solution utilizes to compare captured plate images.	
31.	Describe the training program you will offer Police staff.	
32.	Describe the key personnel who will be involved in this contract.	
33.	Provide three (3) references where your solution is currently being utilized. Include the organization name, key contact, phone number, e-mail, and brief description of the number of cameras being utilized and length of time utilizing the solution.	Reference #1:
		Reference #2
		Reference #3
34.	Provide a timeline for the furnishing, installation, and training for 10 cameras based on a tentative award date of April 5, 2021.	
35.	Provide any additional information regarding the capabilities of the proposed solution.	
36.	Will your company require the City to sign a separate contract? If so please include with submittal.	
37.	Describe your response time commitment for camera relocations. This would be for normal/routine relocations and emergency relocations. The City would prefer emergency relocations no less than 48 hours. Response time commitment means the camera(s) are removed and installed at a new location within the time commitment offered.	
38.	Can your firm provide a suitable mounting pole if needed?	
39.	Describe the pole configuration and include images of the pole configuration with submittal.	

Proposal Questionnaire

“Return this Section with your Response”

Technical Questionnaire

The following section is focused on requirements covering the solution platform, security, disaster recovery, integration, etc. These questions are part of the City’s standard software template and as a result not all questions will apply to this ALPR solution. Please feel free to mark NA for any questions that do not apply to the solution being proposed.

Section	Description
10.1	General IT Information
10.2	Security
10.3	Disaster Recovery
10.4	Solution Data
10.5	Integrations & Application Programmable Interface (API)
10.6	Reporting
10.7	Releases & Quality Control

10.1 General IT Information

1. What is the name of the product(s) that you are providing responses to via the RFP? Click or tap here to enter text.
2. Can your solution move from SaaS to on-premise and vice-versa? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
3. If applicable, describe in detail your hosting platform including any third-party providers. Click or tap here to enter text.
4. Did your Company develop your proposed solution or does your Company re-sell / integrate solutions? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text. Click or tap here to enter text.
5. Does your solution use IPv4 and is it compatible with IPv6? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
6. Is application administration compatible with Microsoft Windows in a VMware View desktop environment? If no, please explain how the application is administered by the City of Tempe staff? Click or tap here to enter text.
7. What are the recommended and/or required hardware and operating system platforms for deployment? Click or tap here to enter text.
8. Does the proposed solution have a mobile application for use on smart phones and tablets, and is this application compatible with iOS and Android? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.

Proposal Questionnaire

“Return this Section with your Response”

9. What is the release version and how long has this product been on the market? Click or tap here to enter text.
10. Describe the process your customers typically follow to customize your proposed solution. Click or tap here to enter text.
11. What software development language(s) and tools are used to make and maintain the proposed solution? Click or tap here to enter text.
12. Provide detailed system architecture documentation including system, network, security, and traffic flows to assist City of Tempe Information Technology with understanding Firewall configuration and system implementation requirements. Click or tap here to enter text.
13. Please describe your proposed solutions licensing model. Click or tap here to enter text.
14. If using subcontractors anywhere within your process or infrastructure, describe your contractual and working relationship including; how long you have worked with them, what services they are providing, where they are located, the length of your current contract, and what extension options are in place. Click or tap here to enter text.

10.2 Security

1. Describe the application’s integration components with Microsoft Active Directory for managing system security access and authentication. Click or tap here to enter text.
2. Please describe the process for user creation, management and security of customer facing user / password database. Click or tap here to enter text.
3. Does the solution allow for multi-faceted role-based authorization security levels for activities within the solution? Example: division assignment + role = permission / access **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
4. Can the solution enforce identification security by Active Directory group memberships? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
5. If the application is installed on or accessed from a user’s workstation, does it contain methods of security to prevent unauthorized access? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.

Proposal Questionnaire

“Return this Section with your Response”

6. Do the users of the system need local administration rights, after initial installation, in order to run the application? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
7. Does the solution prohibit third-party vendor access to the system unless allowed by authorized personnel at the City of Tempe? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
8. If the solution stores or transmits regulated data (PCIDSS, HIPAA, CJIS, DOJ, etc.), can you provide compliance letters to include third-party data centers? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
9. Does the solution include granular security features to restrict information by user that can be viewed, added or modified? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
10. Does the solution support customization of the number of failed logins or access attempts that triggers account or data lockout? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
11. Describe how your web interface and exchange of information (data) uses standard SSL (Security Socket Layer) or TLS (Transport Layer Security). If neither of these security layers are used, explain what method of data security is utilized. [Click or tap here to enter text.](#)
12. Does your solution include security audit reports? If yes, please explain types and how often they are completed. **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
13. Does your proposed solution allow customer access to your firm’s security and audit reports? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
14. Does your proposed solution allow customer access to your firm’s security breach reports and corresponding logs? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
15. Describe how your firm manages your technology, whether on-premise or off-premise. [Click or tap here to enter text.](#)
16. For hosted data, if applicable, provide documented security policies and procedures to include handling of electronic data, physical security, and employee security. [Click or tap here to enter text.](#)
17. Describe how user’s personally identifiable information is secured. [Click or tap here to enter text.](#)

Proposal Questionnaire

“Return this Section with your Response”

18. Has your company developed and implemented an Identity Theft Prevention Program? **Yes** ☐ **No** ☐

Comments: Click or tap here to enter text. Click or tap here to enter text.

19. If a customer insists on different options for the identity theft monitoring, what is your policy? Click or tap here to enter text.

20. How does your company respond to security breaches or loss of information? Click or tap here to enter text.

21. Provide a comprehensive review of your company’s internal and external security procedures. Click or tap here to enter text.

22. Describe Internet sign-on and multi-factor identification procedures. Click or tap here to enter text.

23. Provide options for Advanced Authentication (Two Factor Authentication), IP access restriction, and / or security challenge questions upon access from an unknown or previously used location. Click or tap here to enter text.

24. What would be the City’s liability in the event of a security breach, loss of data, or default by the payment card serve provider or third-party portal? Click or tap here to enter text.

25. Provide information about any third-party data centers that provide services including, but not limited to, data storage, processing, etc. Click or tap here to enter text.

26. What are your procedures for off-site storage of information? Click or tap here to enter text.

10.3 Disaster Recovery

If a hosted solution is proposed, the Service Provider must indicate the capability to recover from natural, human-caused, and electronic disasters (including security compromises) that could interrupt service to the City and the City's customers. The Service Provider will detail their solution to include:

1. Is redundancy of network gateways using multiple, physically non-contiguous US locations provided in case of network-related issues or loss of service? Click or tap here to enter text.
2. Describe the environment safeguards present at any data centers that host the solution, including:
 - Fire detection and suppression
 - Uninterruptible power supply
 - Power generator management
 - Climate control
 - Procedures for off-site storage of data

Click or tap here to enter text.

Proposal Questionnaire

“Return this Section with your Response”

3. Provide the location, including City and State, of all data centers that could potentially host Tempe data. Click or tap here to enter text.
4. Will there be any cost to the City for disaster recovery services? Click or tap here to enter text.
5. Is all data, including metadata and transactional data, backed up on a scheduled basis? If yes, please describe the process and frequency. Click or tap here to enter text.
6. Does your proposed solution require a service interruption during scheduled backups? If yes, please explain. Click or tap here to enter text.
7. Does your solution have a restore process when data is lost, corrupted, etc.? If yes, please explain. Click or tap here to enter text.
8. What are your capabilities and availability for alternate processing, communications, and operations facilities? Click or tap here to enter text.
9. What are your plans for maintaining business processes, including communications with the City and the City’s customers? Click or tap here to enter text.
10. What is the estimated time to recover from disaster events and what are the service level expectations for business continuity following a disaster? Click or tap here to enter text.
11. Provide information related to your disaster recovery and business continuity plan including dates of disaster recovery tests and schedule for future tests. Click or tap here to enter text.

10.4 Solution Data

1. Are data migration services offered? Is there an additional cost for these services? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text. Click or tap here to enter text.
2. What data migration tools does your company use? Click or tap here to enter text.
3. Describe how you receive, store, process and transmit encrypted data that is provided to your software by the City. Click or tap here to enter text.

Proposal Questionnaire

“Return this Section with your Response”

4. What processes do you have in place that would allow for regularly scheduled interim return of the City’s data? Would this be transactional data? [Click or tap here to enter text.](#)
5. Describe the method, condition, and format (e.g. XML, JSON, native database format) you use to return City data upon expiration or cessation of use of resulting contract? [Click or tap here to enter text.](#)
6. Describe the data modeling documentation that will be provided for the proposed solution. Will entity relationship diagrams, data dictionaries, schemas, and record layout documentation be furnished? [Click or tap here to enter text.](#)

10.5 Integrations & API

1. Describe the architecture of any API integration capabilities included with the proposed solution. [Click or tap here to enter text.](#)
2. Does the API have an implementation that is compatible with the .NET framework? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
3. Does the API have an implementation that is accessible via HTTP over TLS? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
4. What major business functions cannot be completed via the API? [Click or tap here to enter text.](#)
5. Can the solution API be used to query data stored within the application? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
6. Can the provided API be used to send commands to alter the state of data within the application? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
7. Will the solution API support web hooks or another similar form of custom callbacks that can be used to notify external systems of changes within your app in (near) real time? Describe. **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)
8. If your solution supports customizations, does the API support accessing and using those customizations (as opposed to only being able to access the “base product” through the API)? **Yes** ☐ **No** ☐ Comments: [Click or tap here to enter text.](#)

Proposal Questionnaire

“Return this Section with your Response”

10.6 Reporting

1. Does the solution provide standard reports? If so, please list and provide samples. **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
2. With this solution can end-users create and store customized queries and reports? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
3. What reporting technologies / platforms are used to create ad-hoc reports for the proposed solution? Click or tap here to enter text.
4. Describe the system's ability to run and distribute reports on a scheduled basis. Click or tap here to enter text.
5. Can solution reports be exported to an external format such as an Excel workbook or a PDF? **Yes** ☐ **No** ☐ Comments: Click or tap here to enter text.
6. Describe how security roles and access are maintained within the reporting function. Click or tap here to enter text.

10.7 Releases & Quality Control

1. Describe the criteria for assuring full system performance and outline how tests will be conducted to demonstrate proper installation. Click or tap here to enter text.
2. Describe the quality assurance processes that your organization employs to ensure that solution versions are free of defects prior to release. Click or tap here to enter text.
3. How are customers informed about new patches and upgrades? Click or tap here to enter text.
4. Describe the product documentation, including any release notes that are included with minor and major releases. Click or tap here to enter text.
5. How frequently are minor and major solution updates released? Click or tap here to enter text.
6. List all minor and major updates of the proposed solution including version number and date of release over the past 12 calendar months. Click or tap here to enter text.

Proposal Questionnaire

“Return this Section with your Response”

7. Describe the process to ensure the integrity of any customizations is maintained during upgrades. Click or tap here to enter text.
8. Can customers elect whether or not to upgrade to the latest version? If customers can choose to remain on an older version, are they still under active support? Click or tap here to enter text.
9. What is the frequency and duration of any regularly scheduled maintenance windows? Click or tap here to enter text.
10. Is the application unavailable during maintenance windows? Click or tap here to enter text.
11. Are users informed in advance of planned maintenance outages? If so, how far in advance, and in what manner? Click or tap here to enter text.
12. Describe the lifecycle policy for the solution and the process and frequency whereby non-current versions are rotated out of active support. Click or tap here to enter text.

Evaluation Criteria

Proposals will be reviewed by an Evaluation Committee consisting of City staff using the criteria and process outlined below.

Evaluation Process

1. The Procurement Office will verify that all proposals meet the requirements to be considered responsive. Responses that do not comply with any mandatory requirements will be considered non-susceptible for award and not forwarded to the Evaluation Committee for scoring.
2. The Evaluation Committee will review and score all responsive proposals and rank them based on the committee's scores. Any proposals determined to score outside of the competitive range may be removed for non-susceptibility. Remaining Offerors may be invited for interviews, negotiations, site visits and best and final offers as determined at the sole discretion of the City.

It is important to note that firms may be removed for non-susceptibility anytime during the evaluation process and not just at the specific points noted above.

	Award Criteria	Weight	X	Rating	=	Points
1.	Quality of the ALPR Solution – The overall quality of the solution to include the ability of the solution to meet the performance requirements detailed herein, the quality of the cameras and capture capabilities, speed of notification alert, added value, etc.	30	X		=	
2.	Matching Data Base – The quality and volume of the data base used to compare and match captured plate images	20	X		=	
3.	Experience – The overall experience of the company in providing similar solutions to Law Enforcement accounts to include reference reviews.	15	X		=	
4.	Pricing	25	X		=	
5.	Response time commitment to complete camera re-locations.	10	X		=	
				Total	=	

This proposal will be evaluated on a cumulative point system using the rating scale shown below (fractional points may be selected within this range).

Scoring

<i>Outstanding</i>	9 – 10
<i>Good</i>	6 – 8
<i>Average</i>	3 – 5
<i>Poor</i>	1 – 2
<i>Not Addressed or Unacceptable</i>	0

To evaluate the cost portion of the above criteria, the City may elect to evaluate each firm on a percentage basis of the lowest cost offer. The formula would be: (Lowest Priced Offer/Evaluated Firm's Price) x Points Possible = Evaluation Points.

Pricing Section

“Return this Section with your Response”

ITEM NO.	DESCRIPTION OF REQUIRED MATERIAL, SERVICE OR CONSTRUCTION	QTY	UNIT	Annual Price	EXTENDED PRICE
1.	Annual fee for each camera to include all costs including equipment, software, installation, maintenance, mobile communications, delivery, etc. based on the number of cameras utilized:				
	Initial acquisition of 10 cameras	10	Each	\$	\$
	Accumulated utilized cameras between 11 and 20	20	Each	\$	\$
	Accumulated utilized cameras between 21 and 30	30	Each	\$	\$
	Accumulated utilized cameras between 31 and 40	40	Each	\$	\$
	Accumulated utilized cameras between 41 and 50	50	Each	\$	\$
2.	Cost per each to remove and re-install camera at new location (beyond any no-cost moves offered)	1	Each	\$	\$
3.	Cost of customized pole, if needed, to include installation	1	Each	\$	\$
3.	Firms may propose alternate pricing models based on the solution proposed. Please be sure to include any and all costs that would apply.				
4.	Detail any additional costs that might apply to this agreement below:				
	The above pricing schedule allows for discounted pricing as the City grows its investment with the awarded firm's solution. The adjusted pricing shall be trued up on anniversary date of agreement.				

* Applicable Tax _____ %

*** State correct jurisdiction to receive sales tax on the Vendor's Offer, included in this Request for Proposal.**

Less prompt payments discount terms of ___ % ___ days/ or net thirty (30) days. (To apply after receipt and acceptance of an itemized monthly statement.) For evaluation purposes, the City cannot utilize pricing discounts based upon payments being made in less than thirty (30) days from receipt of statement.

Ordering and Invoice Instructions

Invoices shall be issued directly to the ordering department. Invoices shall be accurate and complete including the information shown below. Failure to provide a properly documented invoice may cause a delay in receipt of payment. The City will not process an invoice for payment until it has been approved by the ordering department and forwarded to Accounts Payable. The City endeavors to process invoices within 30 days after receipt of an accurate and complete document.

Pricing Section

“Return this Section with your Response”

Invoices shall include:

1. Line item listing of all ordered items to include description of items;
2. Unit cost and extended cost for each line item;
3. Applicable Tax;
4. Payment Terms;
5. Purchase Order Number;
6. Name of selling organization clearly stated on invoice along with address;
7. Phone number and or e-mail address for contact person to clarify invoicing questions;

Invoices that do not follow the above minimum invoicing requirements will not be paid. Payment must be applied to only invoices referenced on check/payment stub. The City reserves the right to process payments via check or P-Card.

Accounting Contacts:

Yesenia Loreda-Flores
Carlene Foster
Scott Gruber

Letters A – H and Numbers
Letters I – Z
General AP Inquiries and AP Checks

Vendor's Offer

“Return this Section with your Response”

Offeror must complete, sign and submit this form to the Procurement Office with the proposal response. An unsigned “Vendor's Offer”, late proposal response, and/or a materially incomplete response will be considered nonresponsive and rejected. Offeror is to type or legibly write in ink all information required below. A scanned copy of this page is acceptable.

Company Name: _____

Company Purchase Order Mailing Address:

Street Address: _____

City, State, Zip: _____

Contact Person: _____ Phone Number: _____

E-mail Address: _____ Cell Number: _____

Remit to Information

Company Name (as it appears on invoice): _____

Company Payment Remit to Address:

Street Address: _____

City, State, Zip: _____

Company Tax Information

If a Tempe-based firm, provide Tempe Transaction Privilege (Sales) Tax No.: _____

Payment Options

Will your company accept the City's Master Card for payment?

Yes

☐

No

☐

Will your company accept Payment via ACH (Automated Clearing House) for payment?

Yes

☐

No

☐

THIS PROPOSAL IS OFFERED BY

REQUIRED SIGNATURE OF AUTHORIZED OFFEROR

By signing this Vendor's Offer, Offeror acknowledges acceptance of all terms and conditions contained herein and that prices offered were independently developed without consultation with any other Offeror or potential Offeror. Failure to sign and return this form with proposal response will be considered nonresponsive and rejected.

Signature of Authorized Offer

Date

Print or Type Name of Authorized Individual

Title of Authorized Individual

Anti-Discrimination Policy



COMPLIANCE WITH CITY'S ANTIDISCRIMINATION ORDINANCE NO. 02016.25

The Tempe City Council approved Ordinance No. 02016.25 that requires vendors who are being recommended for award to provide evidence of their compliance with the City's antidiscrimination policy as shown below:

Sec. 2-601. Policy.

It is declared to be the policy for the citizens of Tempe, Arizona, to be free from discrimination in public accommodations, employment, and housing, and contrary to public policy and unlawful to discriminate against any person on the basis of race, color, gender, gender identify, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, in places of public accommodation, employment, and housing; and contrary to the policy of the city and unlawful for vendors and contractors doing business with the city to discriminate, as set forth in this article.

Sec. 2-603. Unlawful Practices.

The following shall constitute a violation of this article:

For a city vendor or city contractor, because of race, color, gender, gender identify, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges or employment. City vendors and contractors of fifteen (15) or more employees shall provide a copy of its antidiscrimination policy to the Procurement Officer to confirm compliance with this article. Employers having fourteen (14) or less employees may attest in writing to compliance with this article.

Vendor Requirements

Vendors who have fifteen (15) or more employees shall include with their bid/proposal submittal a copy of its antidiscrimination policy that must mirror the City's policy as stated above. Suppliers who have fourteen (14) or less employees may include their antidiscrimination policy or complete a written affidavit of compliance per the attached.

To be completed by responding company and returned with submittal:

- _____ Our company has 15 or more employees and has included its antidiscrimination policy that mirrors the City's policy;
- _____ Our company has fourteen (14) or less employees and is attaching the signed AFFIDAVIT OF COMPLIANCE WITH TEMPE CITY CODE CHAPTER 2 ARTICLE VIII SECTION 2-603(5).

Please include this document along with the company's antidiscrimination policy or the completed affidavit with offer submittal

Anti-Discrimination Policy



Only complete this document if you have 14 or less employees.

AFFIDAVIT OF COMPLIANCE WITH TEMPE CITY CODE

CHAPTER 2 ARTICLE VIII SECTION 2-603(5)

Per Tempe City Code Chapter 2 Article VIII Section 2-603(5), it is unlawful for a City vendor or City contractor, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment.

City vendors and contractors shall provide a copy of their antidiscrimination policy to City to confirm compliance with this requirement or attest in writing to compliance.

- CONTRACTOR means any person who has a contract with the City.
- VENDOR means a person or firm in the business of selling or otherwise providing products, materials, or services.

CONTRACTOR/VENDOR, select one:

_____ Current copy of antidiscrimination policy attached

OR

_____ I hereby certify _____ (contractor/vendor) to be in compliance with Tempe City Code Chapter 2 Article VIII Section 2-603(5).

Signature

Date: _____

Print Name

Title

Company

Supplier Sustainability Questionnaire

The City of Tempe is strongly committed to sustainable practices and programs that help build a vibrant and resilient community. The City accomplishes this through a variety of innovative programs, including water and energy conservation, recycling, composting, alternative transportation, sustainable business practices and environmental stewardship. Tempe recently established its 2019 Climate Action Plan (CAP) that provides a guideline for how the City will take local action on global climate change by reducing its greenhouse gas (GHG) emissions and adapting to the changing climate. The Climate Action Plan serves as a guideline for the City's path toward a sustainable and resilient future that will benefit the entire City. The City has strengthened its commitment to sustainability by adopting a new carbon neutrality goal by 2050 and a strategy of sourcing 100 percent of its electricity from renewable sources by 2035. To learn more about the City's commitment to sustainability, please visit <https://www.tempe.gov/government/sustainable-tempe>.

To further this commitment, the City has developed a Sustainable Procurement Policy that provides specific guidelines for how these important sustainable practices and programs will be reflected in contract award decisions. By partnering with companies who share these sustainability goals, the City will be able to significantly enhance sustainable outcomes.

To support these efforts, the following Supplier Sustainability Questionnaire has been developed that will allow the City to better understand your company's efforts and commitments regarding sustainable practices and initiatives. This questionnaire has two sections – a section to understand what your company is doing regarding sustainable actions and a section to understand the specific sustainable attributes of the product or service that you are offering.

Item	Question	Response
Corporate Sustainable Actions		
1.	What sustainability guidelines or environmental statement does your company have to guide the company as a whole? Please include a link.	
2.	What is your company doing to be more energy efficient?	
3.	What is your company doing to reduce greenhouse gas emissions?	
4.	What is your company doing to reduce waste transferred to landfills?	
5.	What is your company doing to reduce water waste?	
6.	What kind of effort does your company make to reduce the use of environmentally harmful materials (<i>such as cleaning products, etc.</i>)?	
7.	Does your company take any actions to manage the sustainability of your supply chain? If yes, please explain.	
8.	Has your company received any environmental or sustainability related independent certifications or recognitions? If yes, please explain.	

Supplier Sustainability Questionnaire

Item	Question	Response
Product Sustainable Attributes		
1.	Has your company performed an environmental life cycle analysis on the product being offered the City? If yes, please provide documentation	
2.	Can the product being offered be refurbished, recycled, or composted at the end of its life? If yes, please elaborate	
3.	Does the product being offered include any recycled materials? If yes, please explain.	
4.	What measures have been taken to reduce unnecessary packaging materials associated with the product being offered?	
5.	What kind of reusable, recyclable, and/or compostable packaging materials does your company use?	
6.	Has the product being offered been rated or certified by a third-party organization such as Energy Star, Green Seal, Leadership in Energy and Environmental Design (LEED), Forest Stewardship Council, etc.? If yes, please provide certification documentation.	
7.	Please provide any additional information you would like to share regarding your product's sustainable attributes.	

Please find some helpful links below that will provide additional information, tools and resources regarding sustainable practices:

Greenhouse Gas Calculators:

<https://www.epa.gov/energy/greenhouse-gases-equivalencies-calculator-calculations-and-references>

Sustainable Packaging:

<https://www.epa.gov/smm/sustainable-packaging>

<https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/containers-and-packaging-product-specific-data>

Cleaning Products:

<https://www.epa.gov/saferchoice>

Tool to Measure and Track your Waste and Recycling:

<http://www.epa.gov/smm/wastewise/measure-progress.htm>

Water Conservation:

<http://water.epa.gov/polwaste/nps/chap3.cfm>

The following checklist has been provided to assist you in submission of your offer.

This list should not be considered complete, other information or documents may be necessary as part of your submission.

The items listed are the primary documents and information that must be completed and/or included with your proposal.

Please include any additional information or documents that will clarify your submittals.

This document has been issued in Word format to allow the responding firm the ability to provide requested information, answer questions and provide pricing within the actual document.

Description		Included √
1.	One signed and completed copy of the Proposal response – only sections marked “Return this Section with your Response” are required but you may include supplemental materials you believe necessary to clarify your submittal.	
a.	Signed and Completed Vendor’s Offer Form	
2.	Due to the COVID Virus, please submit a single e-copy of the signed and completed proposal to Bids@tempe.gov . The City’s e-mail is capable of accepting up to a 10MB attachment. Please try and keep the proposal under this size limit. However, if you need to exceed 10MB, please break the proposal up into two sections and e-mail in two separate messages clearly indicating the solicitation number on the subject line and denoting Part 1 and Part 2 response. We will be unable to accept any hard copies of the proposal so please e-mail the response as noted above.	
3.	Proposal General Information Questionnaire	
4.	Security Questionnaire	
4.	Pricing Section	
5.	If company has 14 or less employees include a signed and completed Affidavit of Compliance with Tempe City Code Chapter 2 Article VII Section 2-603(5) (form attached)	
6.	If company has 15 or more employees include a copy of its anti-discrimination policy	
7.	Signed Addenda (if applicable)	
8.	Supplier Sustainability Questionnaire	

Alert – If you received this solicitation via a third-party plan-holder company and did not directly download it from the City of Tempe’s Procurement home page you might not have received any addendums that were published during the bidding period. To ensure you are notified of addendums it is critical that you download this solicitation from the City’s web site per the below link:
<https://ww2.tempe.gov/bids/>

Addendum to Solicitation



City Procurement Office/City of Tempe PO Box 5002 • 20 East 6th Street • Tempe, AZ 85280 • (480) 350-8324
www.tempe.gov/procurement

Issue Date:		March 19, 2021
This addendum will modify and/or clarify:	Solicitation No.:	21-119
	and is Addendum No.:	1
Procurement Description:		Fixed Camera ALPR Solution for Police

A. The Request for Proposal Due Date is hereby changed from March 24, 2021 to April 1, 2021. The Opening Time remains unchanged at 3:00 P.M. (MST).

B. The City is modifying all references in the RFP regarding the “provisioning of 10 cameras for the initial implementation.” In a number of areas in the Scope of Work section as well as the Pricing Section the City explained that an initial implementation of 10 cameras would be authorized after award. After further research, the City will allow the proposing firms to determine the initial number of cameras needed to meet the performance objectives as described more fully below.

The following supplier questions have been received with the City’s responses noted in italics:

1. Proposal Questionnaire, Technical Questionnaire, Section 10.2 Security, Question 8, p.31

Question 8. states, “If the solution stores or transmits regulated data (PCIDSS, HIPAA, CJIS, DOJ, etc.), can you provide compliance letters to include third-party data centers?” At this time, there is no such thing as Criminal Justice Information Services Division (CJIS) certification as there is CJIS certifying body and as such, there is no way to provide compliance letters that would substantiate CJIS compliance. And, while Amazon Web Services (AWS), a Cloud Services Provider (CSP) is FedRamp compliant, organizations, such as ALPR vendors that use the cloud hosting to store or transmit data do not get certified– rather the CSP is certified and complies. For this reason, ALPR Software as a Service cannot provide certification compliance letter for, say, FedRamp certification of their cloud hosting since only Amazon holds such certification. Compliance letters do not seem applicable to the ALPR products/services being solicited as there are no applicable certifying bodies that can provide third-party certification and issue compliance letters. Can the City remove the requirement to provide compliance letters from these organizations, as they are not applicable or available or instead require that a Contractor affirm that its system and processes are CJIS (or equivalent) compliant?

As noted in the RFP, the questions in the technical questionnaire are part of the City’s standard software template and as a result not all questions will apply to this ALPR solution. Please feel free to mark NA for this question and any other questions that do not apply to the solution being proposed. If you care to include verbiage that outlines why you feel it is NA in your reply, doing so will be helpful to the committee’s overall assessment of your response.

2. Pricing Section, item 2., p.40 and Proposal Questionnaire, question 22, page 28

Pricing section requirement is, “Cost per each to remove and re-install camera at new location (beyond any no-cost moves offered).” Proposal questionnaire inquires, “Will the firm agree to provide a number of “no cost” relocations as part of their offer? If so, please describe the offer.” In order to answer this question, clarification is needed on what is specifically meant by relocation.

Can the City clarify what is involved with “re-install camera at new location” and “relocations” Can the City provide specific guidance regarding its relocation strategy to help us understand this requirement? Specifically, will ALPR cameras be relocated to a location without power or pole? Will they require solar? Do you know the locations you anticipate going to in the future and specifics on power and infrastructure availability? Should the City desire to not use solar-powered equipment, can the City please confirm if 120-volt power will be available at all desired ALRP locations? Is the City interested in considering trailers as an option? Can the City please specify on how often it would request re-locating a camera? In other words, does the City intend to routinely relocate cameras on a weekly or monthly basis, or will this be more of a medium or long-term strategy where cameras may be relocated sporadically based on accumulated crime data over a 6-12month period of time?

The City recognizes there could be numerous factors impacting a camera re-location. Tempe’s strategy on the overall use of fixed camera solutions will evolve with use but for now the City does not anticipate a high degree of movement on cameras – possibly once a year in some locations.

For purposes of this RFP and the pricing section, please price based on relocations that would be similar as to the original location which would be using a City pole and tied into a solar array power source (or equal) provided by the firm. We are currently targeting several locations in what is referred to as the Baseline Corridor. The initial installation will be based on the number of cameras recommended by the proposing firm to meet the following objective:

Capture all vehicle traffic both east and west bound between the 2000-1300 block of West Baseline to include major points of ingress and egress within the hundred block.

The City initially estimated that this would include up to 10 cameras, but this number is being modified to allow the firm to recommend the number of cameras based on their specific camera technology.

3. Evaluation Criteria, Award Criteria, 2. Matching Data Base, p. 39; and Proposal Questionnaire, Question 30, Page 29. The Proposal Questionnaire asks to, “Describe the license plate data base that your solution utilizes to compare captured plate images.” The evaluation criteria weighting is based in part on “Matching Data Base”, specifically, “The quality and volume of the data base used to

compare, and match captured plate images.” Clarification is needed on what is meant by “data base” in both instances. Can you provide an explanation of the specific data base functionality that the City is seeking, a description of such a data bases, and example/s of the types of data base to which the RFP refers? LPR typically does not require “matching to a database” unless you are referring to NCIC or other hotlists as “databases”.

The term “database” may be confusing. The City would like to know what source of information your firm uses to compare against the captured images of the City’s soon to be installed camera solution. The proposed solution must be capable of interfacing with the NCIC and ACIC data repositories to generate automatic notifications.

4. Proposal Questionnaire, General Information Questionnaire, #38, page 39. Questionnaire inquires, “Can your firm provide a suitable mounting pole if needed?” Clarification is needed on what the City is seeking. If poles need to be provided and the City did not want to use solar power, would the City provide a power source to the pole? Will the Contractor be required to provide engineering drawings and obtain permits for installing poles? Will the contractor be required to provide construction and traffic control services and install the poles?

The City does prefer solar power to support these installations. The City will not provide a power source. Should a pole be needed, the firm will need to work through engineering and obtain permits. The firm will also be responsible for installation and traffic control for installation of any poles required. As indicated later in this addendum, Tempe Police will assist with up to 1 hour of traffic control per location.

5. It says the City prefers a solar powered ALPR solution. Will there be areas where power and/or connectivity are available?

The City cannot guarantee the availability of power on any installed location. Companies must provide independent source of power to support their installation – such as solar, batteries, etc.

6. The system shall be a cloud-based solution, compatible to interface with other agencies and other ALPR systems and databases. Please supply a complete list of other agencies and other ALPR systems and databases to which our solution is required to be compatible and interface with.

The proposed solution must be capable of interfacing with the NCIC and ACIC data repositories. The City does not anticipate the need to interface with other ALPR solutions but if that advantage

is available the firm should indicate which other ALPR products that their solutions can interface with. The City would expect that the awarded solution would be able to share data collected from private and public entities within the same ALPR solution.

7. Per the submittal requirements on Page 47 of the RFP, items #4 is “Security Questionnaire”, is there a separate questionnaire or does this refer to section 10.2 “Security” in the General Information Questionnaire?

The General Information Questionnaire is comprised of 39 questions. The Security Questionnaire begins on page 30 of the RFP and includes Section 10.1 through 10.7. Both of these questionnaires shall be returned with submittal.

8. Will the City of Tempe be supplying SIM’s and necessary data plan, or are does the data plan and SIM need to be included in the ALPR solution and provided by the vendor?

The supplier shall provide the SIM and data plan.

9. After reviewing the Tempe RFP Fixed Camera ALPR Solution for Police, we would like to inquire if the City had proposed locations predetermined for the initial 10-camera locations?

Yes – The City has identified the Baseline Corridor for the initial camera installation. The City is seeking the firm’s recommendation for how many cameras to be installed based on the following performance measure: Capture all vehicle traffic both east and west bound between the 2000-1300 block of West Baseline to include major points of ingress and egress within the hundred block.

10. Is there going to be a scheduled job walk?

No.

11. Are there going to be maps provided for each intersection location so we can install the proper amount of cabling?

Maps can be provided to the successful firm. It is our expectation that cabling should be minimal (if any at all) as the City is wanting to secure a self-sufficient and independent powered solution.

12. If we are installing on poles do the poles belong to the City of Tempe?

Yes.

13. Is there a design for this already?

We have identified several initial locations, but the design will be the responsibility of the successful firm.

14. Are we providing power to the poles?

The City is seeking a self-sufficient and independent powered solution.

15. Need to know what power source we are tapping into?

The City is seeking a self-sufficient and independent powered solution.

16. Are we providing the electrical work?

The firm will be responsible for any electrical work needed.

17. Will we be required to have a Police assistance on the job for most sites since there are at intersections or hire our own assistance company?

If the assistance is minimal (up to 1 hour) City Police can assist with traffic control.

18. Will we need to provide our own bucket truck for installation?

Yes

19. The concludes the questions and responses.

Please ensure that you sign and submit this addendum with your proposal response by the revised due date noted above.

The balance of the specifications and bid solicitation instructions to remain the same. Bidders/Proposal Offerors are to acknowledge receipt and acceptance of this addendum by returning of signed addendum with bid/proposal response. Failure to sign and return an addendum prior to bid/proposal opening time and date may make the bid/proposal response non-responsive to that portion of the solicitation as materially affected by the respective addendum.

Flock Safety		Alex Latraverse, VP Sales	
Name of Company		By – Name and Title (Please Print)	
alex@flocksafety.com		770-905-6240	
Email Address		Telephone	
Atlanta		GA 30318	
City		State Zip	
		Authorized Signature	

Alex Latraverse

Signature Certificate

Document Ref.: JREUM-AAGPY-YBPTV-QV6TT

Document signed by:

	Alex Latraverse Verified E-mail: alex@flocksafety.com IP: 76.97.107.29 Date: 30 Mar 2021 20:10:04 UTC	<i>Alex Latraverse</i> 
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Document completed by all parties on:
30 Mar 2021 20:10:04 UTC

Page 1 of 1



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Contract Modification

Financial Services
Procurement Office
20 E. 6th Street
Tempe, AZ 85281



Contract Number: T21-119-01
Description: Fixed Camera ALPR Solution for Police

Issue Date: February 26, 2024

99625
Flock Safety, Inc.
Gwen Saltal
1170 Howell Mill Rd, NW Unit 210
Atlanta, GA 30318
Office: 866-901-1781
Email: gwen.saltal@flocksafety.com

Effective Date

Beginning: October 1, 2023,
through September
30, 2027 (Retro)

This Contract Modification is being issued to formally document a change related to the above referenced contract. It shall remain in effect through the current expiration date unless extended or canceled per terms and conditions of the above referenced contract. **This modification clarifies an error that was included in the previous CM which is corrected below as part of line item #3 that changes "per month" to "per year". All other information remains unchanged and is restated below:**

Contract Modification Information:

In accordance with the contract Special Terms and Conditions, the parties to this contract have agreed to renew the agreement for four (4) years through September 30, 2027. This extension is in line with the available renewals under the original RFP (4 years remaining). In order to secure savings, the City is utilizing this long-term extension through the end of the natural term of agreement. A new agreement has been negotiated and approved that is attached to this Contract Modification. A summary of the agreed to changes are noted below:

- 1) The agreement has been renewed through September 30, 2027.
- 2) The City currently has 33 cameras in its fleet. All of these cameras will continue to be priced at \$2500 per camera per year through September 30, 2027.
- 3) Any new cameras purchased during the renewal period will be priced at \$3,000 per camera per **month year** which will be held firm through September 30, 2027.
- 4) The parties have agreed to move the term to a fiscal year basis as noted in the attached agreement. Payment will be made up front annually based on the schedule included in the agreement and referenced below:

a) 12/31/2023 through 6/30/2024.....	\$42,413.01
b) 7/1/2024 through 6/30/2025.....	\$82,500.00
c) 7/1/2025 through 6/30/2026.....	\$82,500.00
d) 7/1/2026 through 9/29/2027.....	\$103,011.99

Total..... \$310,425.00

- 5) There is a typo on Page 11.4 of the attached agreement, Paragraph 11.4, Entire Agreement: The reference to RFP 21-110 is hereby changed to **RFP 21-119**.

DocuSigned by:

Mark Smith

AC50931454024F8
Flock Safety Representative

Printed Name:

Contract Modification Acceptance

2/27/2024

Date

Michael Greene
Michael Greene, C.P.M., CPPO
Procurement Administrator

2/27/24
Date

CITY OF ELOY

REQUEST FOR COUNCIL ACTION

Agenda Item: **VIII.A.**

Date: **12/9/2024**

Date submitted:
11/01/2024

Action: Formal

Subject: Approval of a Proposal Submitted by Sunland Asphalt and Construction, LLC for an Amount Not to Exceed \$1,200,000 for Mill and Overlay Pavement Preservation Projects on Main Street and Sunshine Boulevard; and Authorizing the Mayor to Execute the Necessary Agreements.

Date requested:
12/9/2024

TO: Mayor and City Council

FROM: Matt Rencher, Public Works Director/City Engineer

RECOMMENDATION:

Council accepts and approves a contract with Sunland Asphalt and Construction, LLC, for an amount not to exceed \$1,200,000, to conduct mill and overlay pavement preservation projects on Main Street and Sunshine Boulevard.

DISCUSSION:

The City Council has allocated \$1 million of the annual budget to support pavement preservation projects, emphasizing the City's commitment to maintaining and improving critical infrastructure. For FY 2025, Sunshine Boulevard and Main Street have been identified as priority areas in the Pavement Preservation Plan due to their strategic importance as primary gateways to downtown Eloy and the central business district. Preserving these key corridors ensures safe and efficient access for residents, businesses, and visitors, fostering economic activity and community connectivity. This project addresses immediate roadway maintenance needs and represents an investment in the long-term sustainability and functionality of Eloy's transportation network, reinforcing the City's commitment to quality infrastructure and community well-being.

This year's pavement preservation program has received a combined investment of \$1.8 million, with \$1 million allocated from the annual budget and \$800,000 provided through the Streets' one-time capital projects fund. The project will focus on key transportation corridors that serve as primary entrances to downtown Eloy and the city's central business district.

The streets selected for this year's improvements include:

- **Sunshine Blvd** from Frontier to Battaglia Rd.

- **Main Street** from Frontier to Battaglia Rd.

These routes are critical for local traffic flow and provide access to businesses, residential areas, and essential services. The selected areas are in need of surface rehabilitation but remain structurally sound beneath the surface, making them ideal candidates for the "Mill and Fill" method.

What is a Mill and Fill?

The "Mill and Fill" process is a cost-effective pavement preservation technique that involves milling (removing) the top 1.5 inches of asphalt and replacing it with new, fresh asphalt. This treatment helps to extend the life of the road by addressing surface cracking and wear, without the need for a full reconstruction, which can be much more expensive and disruptive.

Why This Project Matters

- **Cost Efficiency:** The "Mill and Fill" method provides a significant cost-saving alternative to full road reconstruction while still addressing surface deterioration.
- **Improved Road Conditions:** The project will reduce cracking, improve the smoothness of the driving surface, and enhance safety for both motorists and pedestrians.
- **Support for Downtown Eloy:** These key streets serve as vital entry points to the heart of Eloy, supporting local businesses and economic growth in the central business district.
- **Long-Term Durability:** By investing in preventive maintenance, the city is helping to extend the lifespan of these roads and reduce the need for more costly repairs in the future.

Project Timeline and Traffic Impact

The pavement preservation work is expected to be completed by the end of June 2025. During construction, motorists may experience lane closures, reduced speed limits, or temporary detours. The City of Eloy is committed to minimizing disruptions and will work closely with local businesses to ensure continued access during construction. The Public Works Department recommends a mill and overlay approach to address the pavement needs on these corridors. This project offers a durable and cost-effective alternative to full roadway reconstruction. Both streets are well-suited for this treatment as their roadway bases remain structurally sound despite surface-level cracking. This approach maximizes the lifespan of the roads while optimizing budgetary resources.

As part of the mill and overlay project on Main Street, the existing brick crosswalks at the old Dustbowl Theater location and the 5th Street intersection will be removed. This decision is due to several factors, including the deterioration of the concrete border, the

inability to clean the bricks effectively, the unavailability of replacement bricks (as the style is no longer in production), and the non-compliance of the crosswalks with ADA standards due to their current condition. Staff research indicated the brick crosswalks were installed sometime in the eighties as part of the downtown facades upgrade and have since surpassed their useful life expectancy. In place of the brick crosswalks, newly painted pedestrian crosswalks will be installed, consistent with others along Main Street within the project area. Additionally, staff will evaluate alternative crosswalk design options as part of the Main Street Streetscaping Project, outlined in the Capital Improvement Plan's 5-year Budget.

In compliance with the City of Eloy's Purchasing Policy and with the authorization of the Finance Director, the Public Works Department leveraged Contract #22-15P-04: Asphalt Products and Services, awarded on March June 28, 2024, through the Pinal County School Office to Sunland Asphalt & Construction LLC. This contract was procured through the 1Governmental Procurement Alliance (1GPA), which solicited competitive quotes from qualified contractors as part of the State of Arizona Cooperative Program. This program enables local governments to access state contracts for goods and services, streamlining procurement processes by eliminating the need for a separate request for proposal (RFP).

FISCAL IMPACT:

The total cost of the project will not exceed \$1,200,000. \$1M of the funding will be allocated from the Streets Preservation line item within the Public Works Highway User Revenue Fund (HURF), with the remaining \$200,000 allocated from the Streets One-Time capital fund.

Approved as to Form:



Stephen R. Cooper, City Attorney

Proposed FY 24-25 Pavement Treatment Mill and Fill



Date: 11/6/2024



600 300 0 600
Feet

661-Main St
Battaglia Rd to Frontier St

550-Sunshine Blvd
Battaglia Rd to Frontier St

Name	SqYds
661-Main St	34,842
550-Sunshine Blvd	35,897
Total	70,739

CONSTRUCTION CONTRACT AGREEMENT

Eloy, Arizona

PAVEMENT PROJECT

This project consists of the mill and overlay preservation project of roadways located at Sunshine Boulevard and Main Street in Eloy, Arizona.

THIS AGREEMENT made and entered into by and between **The City of Eloy**, a political subdivision of the State of Arizona, hereinafter called the "**CITY**", and **Sunland Asphalt and Construction, Incorporated** hereinafter called the "**CONTRACTOR**".

That the **CITY** and the **CONTRACTOR** for the consideration, hereinafter named, agree as follows:

SECTION 1

The complete Contract includes all of the Contract Documents as if set forth in full herein, to wit, the Construction Contract Agreement, Permit forms of other Agencies as may be required by law, any and all Contract Change Orders and/or Supplemental Agreements issued after the execution of the Construction Contract Agreement, Addendum No(s).22-15P-04 issued prior to the opening of the Bids, the Special Provisions, the Project Plans, Reference Specifications, the Bidder's Proposal, the Notice Inviting Bids, the Non-Collusion Affidavit, the Performance Bond, the Payment Bond, all of which are essential parts of this Contract. In the event of any conflict in the provisions thereof, the terms of said Contract Documents as set forth above shall control, each over the other, in the order provided.

SECTION 2

The **CONTRACTOR** shall furnish all materials, except as otherwise provided in the Plans or Specifications, and will perform all the work for:

**ELOY CITY PAVING PROJECT Mill and Overlay for Sunshine Boulevard and Main Street,
ELOY ARIZONA**

This project consists of milling the existing pavement to a depth of 1.5 inches, transporting the asphalt millings to a location designated by the City, adjusting grades of water valves and sewer manholes, and applying temporary and final thermoplastic pavement markings along Sunshine Boulevard and Main Street in the City of Eloy. The work to be performed and the pricing for the work are set forth in the Attached Exhibit "A". The work shall be completed in a good, workmanlike and substantial manner the above-described work in accordance with the Contract Documents for this Project, which Contract Documents are hereby specifically referred to and by such reference made a part hereof.

SECTION 3

CITY will pay **CONTRACTOR** and **CONTRACTOR** agrees to receive and accept the prices set forth in the **BID SCHEDULE AND THE ATTACHED EXHIBIT "A"** as full compensation for the work required under the Bid Items awarded by **CITY**, subject to additions and/or reductions of the quantities of the unit prices bid, for furnishing all labor and materials and for doing all the work contemplated and embraced under this Agreement; for all loss or damages arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work, until the work is accepted by **CITY**; for all expenses incurred by or in consequences of the suspension or discontinuance of work; and for well and faithfully completing the work, the whole thereof, in the manner and in accordance with the Contract Documents therefore and the requirements of the Special Projects Manager under them.

SECTION 4

CONTRACTOR hereby agrees to commence work pursuant to this Contract within **SIXTY (60) CALENDAR** Days after mutually agreed to the date of authorization specified in the **NOTICE TO PROCEED** and to diligently prosecute the same, day to day thereafter, to completion within **Thirty (30) CALENDAR DAYS** after said date except as adjusted by subsequent Contract Change Order(s) and/or Supplemental Agreement(s).

SECTION 5

To the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify and hold harmless the **City**, its agents, officers, officials and employees from and against all tortuous claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the **CONTRACTOR**, its agents, employees or any tier of **CONTRACTOR**'s subcontractors in the performance of this Contract.. It is the **CONTRACTOR**'s duty to defend, hold harmless and indemnify the **City**, its agents, officers, officials and employees from damages that shall arise in connection with any tortuous claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by **CONTRACTOR**'s acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the **CONTRACTOR**, any tier of **CONTRACTOR**'s subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the **CONTRACTOR** may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

SECTION 6

The **CONTRACTOR**, at **CONTRACTOR'S** own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. rating of B++6, or approved license to do business in the State of Arizona with policies and forms satisfactory to the **CITY**.

All required herein shall be maintained in full force and effect until all work required to be performed under the terms of the Contract is satisfactorily completed and formally accepted; failure to do so may, at the sole direction of the **CITY**, constitute a material breach of this Contract.

The **CONTRACTOR'S** insurance shall be primary insurance, and any insurance or self-insurance maintained by the **CITY** shall not contribute to it.

Any failure to comply with the claim reporting provisions of the policies or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the **CITY**.

The policies, except Worker's Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the **CITY**, its agents, officers, officials, and employees for any claims arising out of the **CONTRACTOR'S** work or service.

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the **CITY** under such policies. The **CONTRACTOR** shall be solely responsible for deductible and/or self-insured retention and the **CITY**, at its option, may require the **CONTRACTOR** to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The **CITY** reserves the right to request and to receive, within **10 working days**, certified copies of any or all of the herein required insurance policies and/or endorsements. The **CITY** shall not be obligated, however, to review same or to advise **CONTRACTOR** of any deficiencies in such policies and endorsements, and such receipt shall not relieve **CONTRACTOR** from, or be deemed a waiver of, the **CITY'S** right to insist on strict fulfillment of **CONTRACTOR'S** obligations under this Contract.

The insurance policies, except Workers' Compensation, required by this Contract shall name the **CITY**, its agents, officers, officials and employees as Additional Insured's.

CONTRACTOR shall maintain Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence with a \$2,000,000 Products and Completed Operations Aggregate and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products/completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract, which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form, CG 00211093 or any replacement thereof. The coverage shall not exclude X, C, U.

Such policy shall contain severability of interest provision, and shall not contain a sunset provision or commutation clause, nor any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc's, additional Insured, Form B, CG20101185, and shall include coverage for **CONTRACTOR'S** operations and products and completed operations.

If required by this Contract, the **CONTRACTOR** subcontracting any part of the work, services or operations awarded to the **CONTRACTOR** shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner and **CONTRACTOR'S** Protective Liability insurance policy for bodily

injury and property damage, including death, which may arise in the prosecution of the **CONTRACTOR**'s work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$5,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the **CONTRACTOR**'s Commercial General Liability insurance.

CONTRACTOR shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the **CONTRACTOR**'s any owned, hired, and non-owned vehicles assigned to or used in performance of the **CONTRACTOR**'s work. Coverage will be at least as broad as coverage code 1, any auto, (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off-loading hazards. If hazardous substances, materials or wastes are to be transported, MCS 90 endorsements shall be included and \$5,000,000 per accident limits for bodily injury and property damage shall apply.

The **CONTRACTOR** shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of **CONTRACTOR**'s employees engaged in the performance of the work; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the **CONTRACTOR** will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of the **CONTRACTOR**.

Required coverage's may be modified by an amendment to the Contract Documents.

Prior to commencing Services under this Contract, **CONTRACTOR** shall furnish the **CITY** with Certificates of Insurance, of formal endorsements as required by the Contract, issued by **CONTRACTOR**'s insurer(s), as evidence that policies providing the required coverage's, conditions and limits required by this Contract are in full force and effect.

In the event any insurance policy(ies) required by this Contract is (are) written on a claims made basis, coverage shall extend for two years past completion and acceptance of the **CONTRACTOR**'s work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the **CITY** fifteen (15) calendar days prior to the expiration date.

All Certificates of Insurance required by this Contract shall be identified with a title, **CITY OF ELOY STONE AVENUE PAVING PROJECT**. A \$25.00 administrative fee shall be assessed for all Certificates received without the appropriate title.

Insurance evidenced by these certificates shall not expire, be canceled, or materially changed without fifteen (15) calendar days prior written notice to the **CITY**.

SECTION 7

CONTRACTOR hereby agrees that any Project Observation/Surveillance of the work performed by **CITY** Representative or by other agents or employees of **CITY** is for the purpose of ensuring the technical competence of the work and adherence to other contractual provisions. Such observation/surveillance is not for the purpose of safeguarding workmen on the job, which is the sole responsibility of **CONTRACTOR**.

In this regard, **CONTRACTOR** warrants that he/she is fully familiar with all of the safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 651-678) as promulgated by the Federal Government and as implemented by the State of Arizona, and that he/she will be solely responsible for implementing and enforcing the same at all times.

SECTION 8

CONTRACTOR agrees to accomplish the work so that there will be minimal traffic interruption. If it becomes necessary to close any traffic lanes on any street within the **CITY**, permission must first be obtained from the Special Projects Manager's office. Permission shall be obtained 48 hours in advance for residential streets and 72 hours in advance for collector and arterial streets. **CONTRACTOR** shall furnish and place all detour signs and any and all other warning signs in accordance with the SPECIAL PROVISIONS.

SECTION 9

This Contract shall be governed by the laws of the State of Arizona and should **CITY** bring any legal or equitable action for the purpose of protecting or enforcing its rights under this Agreement, **CITY** shall recover in addition to all other relief, its reasonable attorney's fees and court costs to be fixed by the court.

SECTION 10

It is agreed that the Eloy City Manager, or his Designee, is authorized to execute Contract Change Orders and to enter into Supplemental Agreements necessary to the prosecution of the work, all in accordance with the Standard Specifications.

SECTION 11

CONTRACTOR hereby agrees that he/she will not proceed with any extra work unless he/she has been authorized in writing to do so by the Special Projects Manager prior to the commencement of said extra work.

SECTION 12

The parties do for themselves; their heirs, executors, administrators, successors and assigns agree to the full performance of all of the provisions herein contained. **CONTRACTOR** may not, either voluntarily or by action of law, assign any obligation assumed by **CONTRACTOR** hereunder without prior written consent of **CITY**.

SECTION 13

CONTRACTOR shall cause the Performance Bond to remain in full force and effect through the warranty and guarantee period. By my signature hereunder, as **CONTRACTOR**, I hereby agree to keep the Performance Bond in full force and effect through said period.

SECTION 14

By my signature hereunder, as **CONTRACTOR**, I certify that I will comply with all Federal, State, and local laws, codes, and ordinances as they apply to the work described in the **ELOY MAIN STREET and SUNSHINE BOULEVARD MILL AND OVERLAY PAVEMENT PROJECT**.

SECTION 15

By my signature hereunder, as **CONTRACTOR**, I agree that if only one (1) Progress Payment is prosecuted by **CITY** for this Project, **CITY** will retain ten percent (~~5%~~) (**10%**) of the Progress Payment amount. The ten percent (10%) retention will be discharged in accordance with Subsection 109 of the Standard Specifications.



SECTION 16

By my signature hereunder, as **CONTRACTOR**, I agree that I shall perform no less than fifty-one (51) percent (%) of the total value of the proposed work as delineated in the **BID SCHEDULE** on the **BIDDER'S PROPOSAL**.

SECTION 17

By my signature hereunder, as **CONTRACTOR**, I agree that I am not an employee of **CITY**, and that I am performing the duties hereunder as an Independent Contractor, supplying my own employees, and maintaining my own insurance, and handling all of my own internal accounting. **CITY** in no way controls directs or has any direct responsibility for the actions of **CONTRACTOR** herein.

SECTION 18

By my signature hereunder, as **CONTRACTOR**, I agree that I shall be responsible for the compliance with the United States Immigration Reform and Control Act of 1986, and shall indemnify and hold harmless **CITY** for any liability arising from failure of **CONTRACTOR** to comply with said act. Said indemnification to include the costs of suit.

SECTION 19

By my signature hereunder, as **CONTRACTOR**, I agree that I shall be responsible for compliance with the Americans With Disabilities Act of 1990 and shall indemnify and hold harmless **CITY** for any liability arising from failure of the **CONTRACTOR** to comply with said act. Said indemnification to include the costs of suit.

SECTION 20

By their signatures hereunder, as **CONTRACTOR** and **CITY**, the parties agree to be bound by all applicable Federal and State regulations governing Equal Opportunity and Non-Discrimination.

SECTION 21

This Construction Contract Agreement is subject to the provisions of A.R.S. § 38-511.

SECTION 22

THE EFFECTIVE DATE OF THIS CONSTRUCTION CONTRACT AGREEMENT SHALL BE THE DATE OF SIGNATURE BY THE MAYOR OF THE CITY OF ELOY.

BY: _____

Andrew Sutton, Mayor, City of Eloy

BY: _____

David Malewitz, City Manager, City of Eloy

REVIEW AS TO FORM:

BY: _____

Stephen R. Cooper, City Attorney

Sunland Asphalt & Construction, LLC

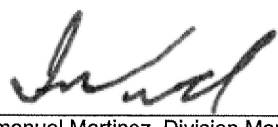
Name of Contractor

DATE: _____

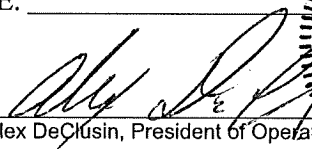
TITLE: Division Manager - Public Works

ATTEST:

Mary Myers, City Clerk

BY: 
Immanuel Martinez, Division Manager - Public Works

TITLE: President of Operations

BY: 
Alex DeClusin, President of Operations - Phoenix

DATE: December 5, 2024



SIGNING INSTRUCTIONS TO THE CONTRACTOR:

All signatures must be notarized. In the event that the contracting firm is a corporation, the president and the secretary or the vice-president and the secretary of the corporation must sign, and the corporate seal must be affixed thereto.

ATTACH NOTARY CERTIFICATES HERE

Sydney Mayberry



CERTIFICATE OF INSURANCE

Eloy, Arizona

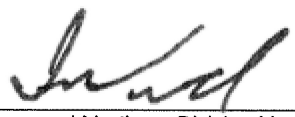
**ELOY CITY PAVING PROJECT- SUNSHINE BOULEVARD AND MAIN STREET MILL AND
OVERLAY PAVEMENT PRESERVATION**

Without limiting any liabilities or any other obligation of Contractor, the Contractor shall purchase and maintain, and cause its subcontractors to purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction of the State of Arizona and, unless otherwise required in the Contract Documents, rated at least B++6 or better in the current A.M. Best ratings, the minimum insurance coverage set forth below which shall be maintained to protect against claims related to the Work or the Contractor's operations under the Contract and for which the Contractor may be legally liable.

AMOUNT AND TYPES OF INSURANCE PER SECTION 70 OF THE GENERAL PROVISIONS, AS
MAY BE MODIFIED BY THE MODIFICATIONS TO THE GENERAL PROVISIONS.

Project Name CITY OF ELOY STONE AVENUE PAVING PROJECT

Contractor Sunland Asphalt & Construction, LLC

Signature 
Immanuel Martinez, Division Manager - Public Works

Insurer/Policy No(s). National Union Fire Ins Co of PA/GL9925617

Exp. Date 04/01/2025

Insurer/Policy No(s). National Union Fire Ins Co of PA/ WC115697004

Exp. Date 04/01/2025

Insurer/Policy No(s). National Union Fire Ins Co of PA/CA9775927

Exp. Date 04/01/2025

Insurer/Policy No(s). Endurance American Insurance Co/PNV10015397700

Exp. Date 02/16/2025

Insurer/Policy No(s). Homesite Insurance Company of Florida/CXP 016711 01

Exp. Date 04/01/2025

Insurer/Policy No(s). Travelers Excess and Surplus Lines Company

Exp. Date 04/01/2025

Insurer/Policy No(s). Travelers Property Casualty Co of Amer/QT-630-3S841370-TIL-24

Exp. Date 08/01/2025

PERFORMANCE BOND

PAYMENT BOND

CERTIFICATE OF SUBSTANTIAL COMPLETION

**CERTIFICATE OF FINAL COMPLETION
CONTRACTOR'S AFFIDAVIT REGARDING**

SETTLEMENT OF CLAIMS



AZROC# 111922 | AZROC# 095189

3030 S. 7TH STREET, PHOENIX, AZ 85040
PHONE: 602.323.2800 | WWW.SUNLANDASPHALT.COM

To:	City of Eloy	Contact:	Refugio Gallegos
Address:	628 N Main St Eloy, AZ 85231 US	Phone:	520 466 7351
		Fax:	520 466 1426
Project Name:	City Of Eloy - FY 24-25 Pavement Preservation Project	Bid Number:	PH026088
Project Location:	Main St. & 3rd St., Eloy, AZ	Bid Date:	9/25/2024

Bid in Accordance with the 1 GOVERNMENTAL PROCUREMENT ALLIANCE (1GPA)

Contract #22-15P-04 – Asphalt and Related Surfaces - Awarded June 28, 2022

Item Description	Estimated Quantity	Unit	Unit Price	Total Price
<u>Mill / Pave (Main St.)</u>	34,842.00	SY	\$14.70	\$512,177.40
Provide Project Management Including Travel Time, Meetings, Paperwork, And Billings. Provide The Following Limited Construction Permits: - Dust Control Permit, Water Meter Permit And Water Buy. Provide Traffic Control And Barricades During Our Scope Of Work. GPS & Pre-lower Utilities Prior To Milling. Mill Approx. 34,842 Square Yards At Main St. Of Existing Asphalt To A Depth Of 1.5 Inches. Millings Will Be Hauled Offsite To The City's Directed Location Near Battaglia Dr. & 11 Mile Corner. Proposal Is Based On A 1.5 Inch Mill Depth, If Asphalt Is Found To Be Deeper Than 1.5 Inches, Additional Charges May Be Incurred. Pave Approx. 34,842 Square Yards With 1/2 Inch MAG Asphalt Surface Course To An Average Finished Depth Of 1.5 Inches After Compaction With A Steel Wheeled Vibratory Roller. Raise 23 Water Valves & 2 Man Holes Flush With New Asphalt Elevation Including Concrete Collar. Includes Temporary Striping And Thermoplastic Striping. This Proposal Is Based On Performing The Work In 1 Phase/Mobilization In Conjunction With Sunshine Blvd.				
<u>Mill/Pave (Sunshine Blvd.)</u>	35,897.00	SY	\$14.70	\$527,685.90
Provide Project Management Including Travel Time, Meetings, Paperwork, And Billings. Provide The Following Limited Construction Permits: - Dust Control Permit, Water Meter Permit And Water Buy. Provide Traffic Control And Barricades During Our Scope Of Work. GPS & Pre-lower Utilities Prior To Milling. Mill Approx. 35,897 Square Yards At Sunshine Blvd. Of Existing Asphalt To A Depth Of 1.5 Inches. Millings Will Be Hauled Offsite To The City's Directed Location Near Battaglia Dr. & 11 Mile Corner. Proposal Is Based On A 1.5 Inch Mill Depth, If Asphalt Is Found To Be Deeper Than 1.5 Inches, Additional Charges May Be Incurred. Pave Approx. 35,897 Square Yards With 1/2 Inch MAG Asphalt Surface Course To An Average Finished Depth Of 1.5 Inches After Compaction With A Steel Wheeled Vibratory Roller. Raise 1 Water Valve Flush With New Asphalt Elevation Including Concrete Collar. Includes Temporary Striping And Thermoplastic Striping. This Proposal Is Based On Performing The Work In 1 Phase/Mobilization In Conjunction With Main St.				

Bid Price Subtotal: \$1,039,863.30

Total City Of Eloy 7.280%: \$75,702.05

Total Bid Price: \$1,115,565.35

Notes:

- Estimated taxes are included in total price. In order to hold pricing, this proposal must be signed and returned within 15 days from the bid date specified above. Due to the pricing volatility of our industry at the moment, Sunland reserves the right to update pricing at any time prior to start of work.
- Material pricing is good through 12-31-2024.
- Sunland Asphalt routinely uses recycled material in hot mix asphalt products.
- Sunland Asphalt will not be held liable for any underground cables, electrical lines, water lines or any other underground obstruction not locatable or not buried to a depth less than 18" below the existing finished grade.
- Sunland is not liable for drainage on projects with less than 1% fall. Due to existing conditions and matching elevations of concrete curbs, buildings and/or asphalt, we may not be able to raise or lower elevations to achieve proper slope to prevent standing water, therefore ponding of water may occur.
- Pricing excludes night/weekend work, permits, fees, bonds, notifications, QC testing, utility adjustment hardware, gate loops, painting bumper blocks, permanent signage, herbicide, removal and disposal of existing fabric underlayment, water source, or survey/staking in price unless noted above. Any pre-existing ADA compliance issues are excluded from contract unless specifically stated in proposal.
- Additional (downtime/mobilization) charges may result from delays beyond the control of Sunland Asphalt (or its subcontractors) which prohibit the above mentioned work from being completed as scheduled. (i.e., unmoved vehicles, disregard for Sunland traffic control, sanitation/delivery services, sprinkler runoff, etc.)

ACCEPTED:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: _____

Signature: _____

Date of Acceptance: _____

CONFIRMED:

Sunland Asphalt & Construction, LLC

Authorized Signature: _____

Project Consultant: Chance Cherry
(602) 288-5052

• **Sunland Asphalt Addendum Terms and Conditions:**

Contractor and Owner hereby accept the terms of the attached Proposal subject to = the terms and conditions set forth in this Addendum. The Proposal and Addendum shall be collectively referred to as the "Contract." This Addendum is attached hereto and incorporated herein by reference. If any of the terms of the Proposal are inconsistent with the terms of this Addendum, then this Addendum shall be controlling and the parties shall be bound by the terms and conditions of this Addendum.

• 1. **WORK**

Contractor will furnish all necessary labor, materials, and equipment to complete the work specified in the Contract (the "Work"). All surfaces to which material is to be applied shall be in a condition similar to the condition at the time the project was bid. Owner shall specify one representative to represent the Owner who has authority to accept the Work and authorize changes to the Work. Owner shall provide reasonable access to a water supply source. Owner grants Contractor permission to utilize photos and videos of the Work and the project site in the promotion of Contractor's business services.

• 2. **PAYMENT**

Contractor shall be paid a monthly progress payment within 15 days after receipt of the payment by the Owner for the value of work performed. Final payment, including all retention, shall be due 15 days after the work described in the Proposal is substantially completed. No provision of this agreement shall serve to void the Contractor's entitlement to payment for properly performed work.

• 3. **INTEREST AND EXPENSES**

All sums not paid when due shall bear an interest rate of 1 1/2% per month or the maximum legal rate permitted by law, whichever is less, and all costs of collection, including a reasonable attorneys' fee, shall be paid by Owner.

• 4. **ATTORNEYS' FEES**

In the event of litigation regarding the Contract or collection efforts by Contractor, the prevailing party shall be awarded its reasonable attorneys' fees and costs, which shall include all costs that would normally be passed through to the client, specifically but not limited to research charges, travel costs, expert witness costs, copying costs, mailing costs, facsimile costs, had-delivery costs, Federal Express or Express Mail costs, taxable costs and disbursements.

• 5. **CONTINUED PERFORMANCE**

Nothing in this Contract shall require the Contractor to continue performance if timely payments are not made to Contractor for suitably performed work.

• 6. **BACK CHARGES**

No back charges or claim of the Owner for services shall be valid except by an agreement in writing by the Contractor before the work is executed, except in the case of the Contractor's failure to meet any requirement of the Contract. In such event, the Owner shall notify the Contractor of such default, in writing, and allow the Contractor reasonable time to correct any deficiency before incurring any cost chargeable to the Contractor.

• 7. **WORK AREAS**

Owner is to prepare all work areas so as to be acceptable for Contractor to perform its work under the Contract. Owner shall notify Contractor in advance when the site will be ready for Contractor to perform its work and shall provide Contractor with free and unobstructed access so that the work can be commenced promptly and completed without delay. Contractor will not be called upon to start work until sufficient areas are ready to insure continued work.

• 8. **TIME FOR PERFORMANCE**

Contractor shall be given a reasonable time in which to commence and complete the performance of the Contract. Contractor provides no assurances as to a complete date since the Work is subject to weather conditions, prior commitments, mechanical failures, and other cause beyond Contractor's control. Contractor shall not be responsible for delays or default where occasioned by any causes of any kind and extent beyond its control, including but not limited to: delay caused by Owner, architect and/or engineers, delays in transportation, shortages of raw materials, civil disorders, labor difficulties, vendor allocations, fires, floods, accident hazardous waste or controlled substances and acts of God. Contractor shall be entitled to equitable adjustment in the contract price for additional costs due to unanticipated project delays or accelerations. Contractor shall not be obligated to provide any labor or materials outside the scope of work unless Owner shall first agree in writing to equitably adjust the contract price to be paid Contractor.

• 9. **WORKMANSHIP**

All workmanship and materials are guaranteed against defects for a period of one (1) year from the date of substantial completion of installation. This warranty is in lieu of all other warranties, express or implied, including any warranties of merchantability or fitness for a particular purpose. The exclusive remedy shall be that Contractor will replace or repair any part of its work which is found to be defective. Contractor shall not be responsible for special, incidental or consequential damages. Contractor shall not be responsible for damage to its work by other parties or for improper use of equipment by other industry standard practices and will override strict compliance and strict performance. Contractor makes no warranty regarding drainage where the slope provided or allowable is less than two percent (2%). Contractor's warranty does not extend to or cover settlement or cracking of asphalt or pavement due to expansive soils, improperly compacted utility trenches, or for failures caused by the inadequate compaction of the subgrade. Contractor shall not be liable for damage to underground utilities which were improperly installed and/or backfilled.

• 10. **WORK HOURS**

Work called for herein is to be performed during Contractor's regular working hours as agreed to by the Owner and the Contractor.

• 11. **NOTICE**

Any notice or written claim required by the Contract to be submitted to the Owner, on account of charges, extras, delays, acceleration, or otherwise, shall be furnished within a time period, and in a manner to permit the Owner to satisfy the requirements of the Contract, notwithstanding any shorter time period otherwise provided.

• 12. **LIEN RIGHTS**

Nothing in this Contract shall serve to void Contractor's right to file a lien or claim on its behalf in the event that any payment to Contractor is not timely made.

• 13. **LABOR**

Contractor shall not be bound by any of Owner's labor agreements (in whole or in part).

• 14. **LIQUIDATED DAMAGES**

The Owner shall make no demand for liquidated damages for delays in any sum in excess of such amounts as may be specifically named in this Contract and no liquidated damages may be assessed against Contractor for more than the amount paid by the Owner for unexcused delays to the event actually caused by the Contractor.

• 15. SCHEDULE

Contractor shall submit a schedule to Owner, Owner will review and notify Contractor of any schedule conflict. If Contractor finds it necessary to change his schedule, Owner will give his best effort to meet this change in schedule. Contractor shall not be penalized for non-performance and will be paid for work performed.

• 16. INSURANCE RESTRICTION

Notwithstanding any provision to the contrary, Contractor shall maintain the types and limitations on insurance as shown on the attached certificate of insurance. Contractor is not required to waive any claims or rights of subrogation against the Owner or any others for losses and claims covered or paid by Owner's workers compensation or general liability insurance. Acceptance of the Certificate of Insurance constitutes acceptance of the insurance of Contractor, including any additional insured requirements. In addition, Contractor shall not provide completed operations under an additional insured requirement.

• 17. INDEMNITY, HOLD HARMLESS

To the fullest extent permitted by law, Contractor agrees to protect, defend, indemnify, and hold harmless Owner from and against all liability, loss, claims, demands, damages, suits, costs, fees, fines, penalties, expenses, and causes of action to the extent caused by Contractor or any of Contractor's employees, agents, representatives, subcontractors, or suppliers. Any indemnification or hold harmless obligation of the Contractor shall extend only to claims resulting to bodily injury and property damage and then only to that part or proportion of any claim damage, loss or defect that results from the negligence or intentional act of Contractor or someone for whom it is responsible. Nothing in this agreement shall require the Contractor to indemnify any other party from any damages including expenses and attorneys' fees to persons or property for any amount exceeding the degree Contractor directly caused such damages. Contractor shall not be responsible for fines or assessments made against Owner and Contractor. Contractor retains all rights of subrogation. Contractor will not indemnify anybody for any actions except for Contractor's own negligence and only in the proportional amount of its negligence.

• 18. RIGHT TO RELY

Contractor shall rely on plans, drawings, specifications and other information provided by Owner, Owner, Architect or representatives of each. Contractor assumes no risk for unknown or unforeseen conditions not evident from the plans, drawings, specifications or other information provided to Contractor.

• 19. HAZARDOUS WASTE

Contractor shall have no obligation to handle (that is, to remove, treat or transport) any substance which is considered hazardous waste or substance under state or federal law ("hazardous waste"). Handling hazardous waste shall be outside the scope of work of this Contract. Title to all hazardous waste shall remain with others and shall not be property of Contractor.

• 20. SOILS

Contractor shall have no liability to Owner or any third-party relating to underlying soil conditions. Contractor will not sacrifice the quality or integrity by placing asphalt pavement on base course or subgrade that is unstable or subgrade containing frost, including top lifts or overlays when temperatures do not meet material specifications. Contractor's warranty shall be waived and have no effect should Owner direct or authorize Contractor to pave on unstable subgrade or subgrade containing frost and Owner shall be responsible for any and all resulting damage or required repairs. If Owner requests that the top lift of asphalt be placed at a later date, the cost for all clean up and remobilization is the Owner's responsibility.

• 21. ENGINEERING SERVICES

If Contractor provides subcontracted construction stakes and/or subcontracted engineering services, Owner agrees to indemnify and defend Contractor from and against any and all claims, demands, damages, costs or expenses, including attorneys' fees, resulting from or related to these services, including drainage of water as to direction and amount, both during and after performance of the Work. If a soil sterilizer or herbicide is applied by Contractor, it is applied at the request of Owner in an effort to retard weed growth and Contractor makes no representation or guarantee that its use will have the intended effect. Owner shall indemnify, hold harmless, and defend Contractor from and against any and all damages, claims, costs or expenses, including attorneys' fees and costs, resulting from these services. Owner is advised to retain an independent licensed soils engineer for a study of the existing soils in order to recommend a specific pavement design. Contractor may modify the Proposal to include such recommendations.

• 22. AMERICANS WITH DISABILITIES ACT

Owner is solely responsible for maintaining the subject property in full compliance with the ADA and agrees to indemnify and hold Contractor harmless from and against any and all liability, claims, damages or expenses, including attorneys' fees, relating in any way to ADA requirements or issues. Contractor recommends that Owner obtain the services of a certified ADA consultant for site evaluations and recommendations as required by Federal and State law. If directed by the Owner to obtain compliance, Owner may make recommendations for such work and additional charges may apply.

• 23. DISPUTE RESOLUTION

Final determination of contract compliance and all dispute resolutions shall be handled in the jurisdiction and venue of Maricopa County, Arizona, and be governed by the laws of Arizona.



Contract Extension/Amendment

March 11, 2024

Sunland Asphalt & Construction LLC
1625 E. Northern Avenue
Phoenix, AZ 85020
Attn: Lisa Folsom (lfolsom@sunlandasphalt.com, invmail@sunlandasphalt.com)

Re: Extension Agreement for Contract #22-15P-04, Asphalt Products and Services

The above referenced contract is hereby mutually extended for an additional one (1) year period until June 28, 2025. This is the third year of a potential five-year agreement. **Please indicate your desire to extend your contract by completing and emailing back the signed Contract Extension along with the following documentation:**

- ☒ Updated Certificate of Insurance (see terms and conditions of contract to ensure compliance).
- ☒ Proof/Verification of ROC Licensing in good standing (if applicable).
- ☐ Proof of any other applicable licensing related to your contract.
- ☒ Proof/Verification of good standing with Arizona Corporation Commission or other State's comparable Corporations/Business Division or Secretary of State (as applicable).
- ☒ Updated Contact Information Sheet completed.

Please check ONE of the following appropriate boxes regarding pricing:

- ☐ No contract pricing updates. Current price on file is accurate.
- ☒ Our contract pricing is based on a firm-fixed price list. We are providing an updated firm-fixed price list for 1GPA's approval with this extension.
- ☐ Our contract pricing is based on a percentage discount. We are providing new price lists for 1GPA's approval with this extension. *Note: Percentage Discounts remain the same as per contract terms and conditions.*
- ☐ We are aware of new price lists that will be available during the upcoming contract year. We will present those when received. Current price lists will remain on file until updated price lists are received and approved by 1GPA.

Please include a brief description of all the price updates below:

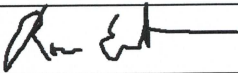
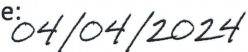
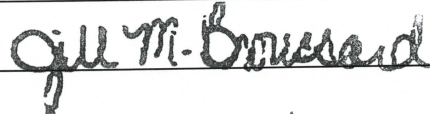
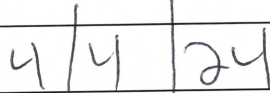
The attached represents the modified pricing per our contract. Please note the pricing is a not to exceed price list. This pricing update reflects an increase in materials and labor rates since the contract inception and all other factors remain as with the original contract award.

It is the contractor's responsibility to keep all pricing up to date and on file with 1GPA. All price changes must be provided to 1GPA for review and utilizing the same format provided in the contractor's original proposal.

By signing this document, vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

In addition, please verify that your company is providing usage reports as per the terms of your contract. If you have any questions or concerns regarding these reports, please feel free to contact Michelle Aiken by email: maiken@1GPA.org.

Except as otherwise expressly provided in this amendment, all of the terms and conditions of the Contract remain unchanged and in full force and effect.

Vendor Acceptance/Signature: 	
Printed Name: Ron Erickson	
Title: Division Manager, Maintenance	Date: 4-1-2024
1GPA Authorized Signature: 	
Printed Name: Christy Knorr	
Title: President	Date: 
Pinal County ESA Authorized Signature: 	
Printed Name: Jill Broussard	
Title: Superintendent	Date: 

Item Categories			Asphalt Cost Form		Greater Phoenix Region- Maricopa		East Region - Gila, Navajo & Apache		East Region - Greenlee, Graham		North Region- Yavapai & Coconino		North West Region- Mohave		South Region- Pinal, Pima, Cochise & Santa Cruz		West Region- Yuma & La Paz	
			IFB 17-16P Asphalt Products and Services															
			Company Name: Sunland Asphalt & Construction															
			Instructions: Bidder shall provide pricing for the various services allowed under this IFB. List additional labor and/or services rates for															
			Zone/Region #:															
			112%	127%	132%	122%	127%	122%	127%									
Service Category	Service Description: See Note #1 Below	UOM	Unit Price - Zone 3	Unit Price - Zone 1	Unit Price - Zone 2	Unit Price - Zone 4	Unit Price - Zone 5	Unit Price - Zone 6	Unit Price - Zone 7									
AC Surface Patching	Mobilization	Flat Fee	\$ 672.00	\$ 853.44	\$ 887.04	\$ 819.84	\$ 853.44	\$ 819.84	\$ 853.44									
AC Surface Patching	Per Square Foot Per Inch, Less than 10,000 SQFT	Per SQFT Per Inch	\$ 1.68	\$ 2.13	\$ 2.22	\$ 2.05	\$ 2.13	\$ 2.05	\$ 2.13									
AC Surface Patching	Per Square Foot Per Inch, Greater than 10,000 SQFT	Per SQFT Per Inch	\$ 1.40	\$ 1.78	\$ 1.85	\$ 1.71	\$ 1.78	\$ 1.71	\$ 1.78									
AC Remove and Replace	Mobilization Charge	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92									
AC Remove and Replace	2 Inch Depth, Under 10,000 SQFT	SQFT	\$ 3.36	\$ 4.27	\$ 4.44	\$ 4.10	\$ 4.27	\$ 4.10	\$ 4.27									
AC Remove and Replace	2 Inch Depth, Over 10,000 SQFT	SQFT	\$ 2.80	\$ 3.56	\$ 3.70	\$ 3.42	\$ 3.56	\$ 3.42	\$ 3.56									
AC Remove and Replace	3 Inch Depth, Under 10,000 SQFT	SQFT	\$ 4.20	\$ 5.33	\$ 5.54	\$ 5.12	\$ 5.33	\$ 5.12	\$ 5.33									
AC Remove and Replace	3 Inch Depth, Over 10,000 SQFT	SQFT	\$ 3.64	\$ 4.62	\$ 4.80	\$ 4.44	\$ 4.62	\$ 4.44	\$ 4.62									
AC Remove and Replace	4 Inch Depth - 2 Lifts, Under 10,000 SQFT	SQFT	\$ 5.32	\$ 6.76	\$ 7.02	\$ 6.49	\$ 6.76	\$ 6.49	\$ 6.76									
AC Remove and Replace	4 Inch Depth - 2 Lifts, Over 10,000 SQFT	SQFT	\$ 4.76	\$ 6.05	\$ 6.28	\$ 5.81	\$ 6.05	\$ 5.81	\$ 6.05									
AC Remove and Replace	5 Inch Depth - 2 Lifts, Under 10,000 SQFT	SQFT	\$ 6.16	\$ 7.82	\$ 8.13	\$ 7.52	\$ 7.82	\$ 7.52	\$ 7.82									
AC Remove and Replace	5 Inch Depth - 2 Lifts, Over 10,000 SQFT	SQFT	\$ 5.60	\$ 7.11	\$ 7.39	\$ 6.83	\$ 7.11	\$ 6.83	\$ 7.11									
AC Remove and Replace	6 Inch Depth - 2 Lifts, Under 10,000 SQFT	SQFT	\$ 6.72	\$ 8.53	\$ 8.87	\$ 8.20	\$ 8.53	\$ 8.20	\$ 8.53									
AC Remove and Replace	6 Inch Depth - 2 Lifts, Over 10,000 SQFT	SQFT	\$ 6.16	\$ 7.82	\$ 8.13	\$ 7.52	\$ 7.82	\$ 7.52	\$ 7.82									
Asphalt Speed Bumps	Mobilization Charge	Flat Fee	\$ 672.00	\$ 853.44	\$ 887.04	\$ 819.84	\$ 853.44	\$ 819.84	\$ 853.44									
Asphalt Speed Bumps	Speed Bumps (18" Wide x 24 Linear Feet) at 3" Height	Each	\$ 280.00	\$ 355.60	\$ 369.60	\$ 341.60	\$ 355.60	\$ 341.60	\$ 355.60									
Asphalt Speed Humps and Tables	Mobilization Charge	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92									
Asphalt Speed Humps and Tables	Speed Humps (3' Wide x Street Width) at 3" Height	SQFT	\$ 6.72	\$ 8.53	\$ 8.87	\$ 8.20	\$ 8.53	\$ 8.20	\$ 8.53									
Asphalt Speed Humps and Tables	Speed Humps (12' Wide x Street Width) at 3" Height	SQFT	\$ 6.44	\$ 8.18	\$ 8.50	\$ 7.86	\$ 8.18	\$ 7.86	\$ 8.18									
Asphalt Speed Humps and Tables	Speed Humps (14' Wide x Street Width) at 3" Height	SQFT	\$ 6.16	\$ 7.82	\$ 8.13	\$ 7.52	\$ 7.82	\$ 7.52	\$ 7.82									
Asphalt Speed Humps and Tables	Speed Tables (22' Wide x Street width) at 3" Height	SQFT	\$ 5.60	\$ 7.11	\$ 7.39	\$ 6.83	\$ 7.11	\$ 6.83	\$ 7.11									
Asphaltic Concrete Paving and Overlay	Mobilization Charge	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00									
Asphaltic Concrete Paving and Overlay	1" Depth	SQFT	\$ 1.12	\$ 1.42	\$ 1.48	\$ 1.37	\$ 1.42	\$ 1.37	\$ 1.42									
Asphaltic Concrete Paving and Overlay	1-1/2" Depth	SQFT	\$ 1.51	\$ 1.92	\$ 2.00	\$ 1.84	\$ 1.92	\$ 1.84	\$ 1.92									
Asphaltic Concrete Paving and Overlay	2" Depth	SQFT	\$ 1.90	\$ 2.42	\$ 2.51	\$ 2.32	\$ 2.42	\$ 2.32	\$ 2.42									
Asphaltic Concrete Paving and Overlay	3" Depth	SQFT	\$ 2.69	\$ 3.41	\$ 3.55	\$ 3.28	\$ 3.41	\$ 3.28	\$ 3.41									
Asphaltic Concrete Paving and Overlay	4" Depth - 2 Lifts	SQFT	\$ 3.47	\$ 4.41	\$ 4.58	\$ 4.24	\$ 4.41	\$ 4.24	\$ 4.41									
Asphalt Concrete Fabric Overlay	Mobilization	Flat Fee	\$ 1,120.00	\$ 1,422.40	\$ 1,478.40	\$ 1,366.40	\$ 1,422.40	\$ 1,366.40	\$ 1,422.40									
Asphalt Concrete Fabric Overlay	Fabric Overlay	SQFT	\$ 0.56	\$ 0.71	\$ 0.74	\$ 0.68	\$ 0.71	\$ 0.68	\$ 0.71									
Asphalt Milling	Mobilization	Flat Fee	\$ 1,680.00	\$ 2,133.60	\$ 2,217.60	\$ 2,049.60	\$ 2,133.60	\$ 2,049.60	\$ 2,133.60									
Asphalt Milling	Asphalt Milling Per Inch Deep	SQYD	\$ 0.73	\$ 0.92	\$ 0.96	\$ 0.89	\$ 0.92	\$ 0.89	\$ 0.92									
Ultra Thin Bonded Wearing Course	Mobilization	Flat Fee	\$ 5,600.00	\$ 7,112.00	\$ 7,392.00	\$ 6,832.00	\$ 7,112.00	\$ 6,832.00	\$ 7,112.00									
Ultra Thin Bonded Wearing Course	Residential Streets: 1.25" to 1.5" in Thickness	SQYD	\$ 10.08	\$ 12.80	\$ 13.31	\$ 12.30	\$ 12.80	\$ 12.30	\$ 12.80									
Ultra Thin Bonded Wearing Course	Arterial/Collector Streets: 1.0" to 1.25" in Thickness	SQYD	\$ 12.32	\$ 15.65	\$ 16.26	\$ 15.03	\$ 15.65	\$ 15.03	\$ 15.65									
Ultra Thin Bonded Wearing Course	Edge Milling at Depth of Wearing Course	SQYD	\$ 2.80	\$ 3.56	\$ 3.70	\$ 3.42	\$ 3.56	\$ 3.42	\$ 3.56									
Asphalt Sawcutting	Mobilization	Flat Fee	\$ 336.00	\$ 426.72	\$ 443.52	\$ 409.92	\$ 426.72	\$ 409.92	\$ 426.72									
Asphalt Sawcutting	Per Inch of Thickness	LF	\$ 0.62	\$ 0.78	\$ 0.81	\$ 0.75	\$ 0.78	\$ 0.75	\$ 0.78									
Concrete Sawcutting	Mobilization	Flat Fee	\$ 336.00	\$ 426.72	\$ 443.52	\$ 409.92	\$ 426.72	\$ 409.92	\$ 426.72									
Concrete Sawcutting	Per Inch of Thickness	LF	\$ 0.84	\$ 1.07	\$ 1.11	\$ 1.02	\$ 1.07	\$ 1.02	\$ 1.07									
Parking Lot Sweeping	Mobilization	Flat Fee	\$ 336.00	\$ 426.72	\$ 443.52	\$ 409.92	\$ 426.72	\$ 409.92	\$ 426.72									
Parking Lot Sweeping	Parking Lot Sweeping	SQFT	\$ 0.02	\$ 0.03	\$ 0.03	\$ 0.03	\$ 0.03	\$ 0.03	\$ 0.03									
Hot Rubber Crack Seal	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92									
Hot Rubber Crack Seal	Hot Rubber Crack Seal 1	LB	\$ 2.52	\$ 3.20	\$ 3.33	\$ 3.07	\$ 3.20	\$ 3.07	\$ 3.20									
Hot Rubber Crack Seal	Hot Rubber Crack Seal 2	LB	\$ 2.52	\$ 3.20	\$ 3.33	\$ 3.07	\$ 3.20	\$ 3.07	\$ 3.20									
Wide Crack Seal	Mobilization	Flat Fee	\$ 1,680.00	\$ 2,133.60	\$ 2,217.60	\$ 2,049.60	\$ 2,133.60	\$ 2,049.60	\$ 2,133.60									
Wide Crack Seal	Wide Crack Seal	LB	\$ 4.48	\$ 5.69	\$ 5.91	\$ 5.47	\$ 5.69	\$ 5.47	\$ 5.69									
Wide Crack Seal	First Coat	LB	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -									
Asphalt Emulsion Sealer Spray Applied SealMaster MasterSeal or Equivalent	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92									
Asphalt Emulsion Sealer Spray Applied SealMaster MasterSeal or Equivalent	First Coat	SQFT	\$ 0.06	\$ 0.07	\$ 0.07	\$ 0.07	\$ 0.07	\$ 0.07	\$ 0.07									
Asphalt Emulsion Sealer Spray Applied SealMaster MasterSeal or Equivalent	Second Coat 1	SQFT	\$ 0.03	\$ 0.04	\$ 0.04	\$ 0.04	\$ 0.04	\$ 0.04	\$ 0.04									

Item Categories	Asphalt Cost Form			Zone/Region #:	3	1	2	4	5	6	7
	IFB 17-16P Asphalt Products and Services										
	Company Name: Sunland Asphalt & Construction										
	Instructions: Bidder shall provide pricing for the various services allowed under this IFB. List additional labor and/or services rates for										
			112%	127%	132%	122%	127%	122%	127%		
Service Category	Service Description: See Note #1 Below	UOM	Unit Price - Zone 3	Unit Price - Zone 1	Unit Price - Zone 2	Unit Price - Zone 4	Unit Price - Zone 5	Unit Price - Zone 6	Unit Price - Zone 7		
Asphalt Emulsion Sealer Spray Applied SealMaster MasterSeal or Equivalent	Second Coat 2		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Asphalt Emulsion Sealer Squeegee Applied	Mobilization 1	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Asphalt Emulsion Sealer Squeegee Applied	First Coat	SQFT	\$ 0.08	\$ 0.10	\$ 0.10	\$ 0.10	\$ 0.10	\$ 0.10	\$ 0.10		
Asphalt Emulsion Sealer Squeegee Applied	Second Coat	SQFT	\$ 0.04	\$ 0.06	\$ 0.06	\$ 0.05	\$ 0.06	\$ 0.05	\$ 0.06		
Asphalt Emulsion Sealer Squeegee Applied	Mobilization 2		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster PMM or Equivalent	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster PMM or Equivalent	First Coat	SQFT	\$ 0.10	\$ 0.13	\$ 0.13	\$ 0.12	\$ 0.13	\$ 0.12	\$ 0.13		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster PMM or Equivalent	Second Coat	SQFT	\$ 0.04	\$ 0.06	\$ 0.06	\$ 0.05	\$ 0.06	\$ 0.05	\$ 0.06		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster PMM or Equivalent	First Coat - Squeegee		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster Liquid Road or Equivalent 1	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster Liquid Road or Equivalent 1	First Coat - Squeegee	SQFT	\$ 0.09	\$ 0.11	\$ 0.12	\$ 0.11	\$ 0.11	\$ 0.11	\$ 0.11		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster Liquid Road or Equivalent 1	Second Coat - Spray	SQFT	\$ 0.04	\$ 0.06	\$ 0.06	\$ 0.05	\$ 0.06	\$ 0.05	\$ 0.06		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster Liquid Road or Equivalent 2	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster Liquid Road or Equivalent 2	First Coat - Squeegee	SQFT	\$ 0.28	\$ 0.36	\$ 0.37	\$ 0.34	\$ 0.36	\$ 0.34	\$ 0.36		
Asphalt Emulsion Sealer Squeegee and Spray Applied SealMaster Liquid Road or Equivalent 2	Second Coat - Spray	SQFT	\$ 0.11	\$ 0.14	\$ 0.15	\$ 0.14	\$ 0.14	\$ 0.14	\$ 0.14		
Scrub Seal	Mobilization	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Scrub Seal	Scrub Seal	SQFT	\$ 0.67	\$ 0.85	\$ 0.89	\$ 0.82	\$ 0.85	\$ 0.82	\$ 0.85		
Tire Rubber Modified Surface Sealer TRMSS	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Tire Rubber Modified Surface Sealer TRMSS	TRMSS	SQFT	\$ 0.11	\$ 0.14	\$ 0.15	\$ 0.14	\$ 0.14	\$ 0.14	\$ 0.14		
Conventional Type II Slurry Seal	Mobilization	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Conventional Type II Slurry Seal	Conventional Type II Slurry Seal	SQYD	\$ 4.20	\$ 5.33	\$ 5.54	\$ 5.12	\$ 5.33	\$ 5.12	\$ 5.33		
Latex Polymer Modified II Slurry Seal	Mobilization	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Latex Polymer Modified II Slurry Seal	Latex/Polymer Modified II Slurry Seal	SQYD	\$ 4.20	\$ 5.33	\$ 5.54	\$ 5.12	\$ 5.33	\$ 5.12	\$ 5.33		
Microseal Type II Slurry Seal	Mobilization	Flat Fee	\$ 5,040.00	\$ 6,400.80	\$ 6,652.80	\$ 6,148.80	\$ 6,400.80	\$ 6,148.80	\$ 6,400.80		
Microseal Type II Slurry Seal	Microseal Type II Slurry Seal	SQYD	\$ 5.04	\$ 6.40	\$ 6.65	\$ 6.15	\$ 6.40	\$ 6.15	\$ 6.40		
Single Chip Seal	Mobilization	Flat Fee	\$ 5,040.00	\$ 6,400.80	\$ 6,652.80	\$ 6,148.80	\$ 6,400.80	\$ 6,148.80	\$ 6,400.80		
Single Chip Seal	Single Chip Seal	SQYD	\$ 4.20	\$ 5.33	\$ 5.54	\$ 5.12	\$ 5.33	\$ 5.12	\$ 5.33		
Double Chip Seal	Mobilization	Flat Fee	\$ 5,040.00	\$ 6,400.80	\$ 6,652.80	\$ 6,148.80	\$ 6,400.80	\$ 6,148.80	\$ 6,400.80		
Double Chip Seal	Double Chip Seal	SQYD	\$ 7.28	\$ 9.25	\$ 9.61	\$ 8.88	\$ 9.25	\$ 8.88	\$ 9.25		
Polymer Modified Asphalt Chip Seal	Mobilization	Flat Fee	\$ 5,040.00	\$ 6,400.80	\$ 6,652.80	\$ 6,148.80	\$ 6,400.80	\$ 6,148.80	\$ 6,400.80		
Polymer Modified Asphalt Chip Seal	Polymer Modified Asphalt Chip Seal	SQYD	\$ 5.32	\$ 6.76	\$ 7.02	\$ 6.49	\$ 6.76	\$ 6.49	\$ 6.76		
Terminal Blend Rubber Chip Seal	Mobilization	Flat Fee	\$ 5,040.00	\$ 6,400.80	\$ 6,652.80	\$ 6,148.80	\$ 6,400.80	\$ 6,148.80	\$ 6,400.80		
Terminal Blend Rubber Chip Seal	Terminal Blend Rubber Chip Seal	SQYD	\$ 5.32	\$ 6.76	\$ 7.02	\$ 6.49	\$ 6.76	\$ 6.49	\$ 6.76		
Acrylic Modified Asphalt Emulsion Seal	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Acrylic Modified Asphalt Emulsion Seal	Acrylic Modified Asphalt Emulsion Seal	SQFT	\$ 0.11	\$ 0.14	\$ 0.15	\$ 0.14	\$ 0.14	\$ 0.14	\$ 0.14		
Fog Seal or Tack Seal	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Fog Seal or Tack Seal	Fog Seal or Tack Seal	SQFT	\$ 0.09	\$ 0.11	\$ 0.12	\$ 0.11	\$ 0.11	\$ 0.11	\$ 0.11		
Excavation Demo and Haul Asphalt Dirt Etc	Mobilization	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Excavation Demo and Haul Asphalt Dirt Etc	Non-Concrete	Cubic Yard	\$ 56.00	\$ 71.12	\$ 73.92	\$ 68.32	\$ 71.12	\$ 68.32	\$ 71.12		
Excavation Demo and Haul Asphalt Dirt Etc	Concrete	Cubic Yard	\$ 67.20	\$ 85.34	\$ 88.70	\$ 81.98	\$ 85.34	\$ 81.98	\$ 85.34		
Excavation Demo and Haul Asphalt Dirt Etc	Concrete with Rebar	Cubic Yard	\$ 84.00	\$ 106.68	\$ 110.88	\$ 102.48	\$ 106.68	\$ 102.48	\$ 106.68		
Dump Fees	Non-Concrete	Cubic Yard	\$ 22.40	\$ 28.45	\$ 29.57	\$ 27.33	\$ 28.45	\$ 27.33	\$ 28.45		
Dump Fees	Concrete	Cubic Yard	\$ 33.60	\$ 42.67	\$ 44.35	\$ 40.99	\$ 42.67	\$ 40.99	\$ 42.67		
Dump Fees	Organic	Cubic Yard	\$ 56.00	\$ 71.12	\$ 73.92	\$ 68.32	\$ 71.12	\$ 68.32	\$ 71.12		
Place and Compact Fill or ABC or GSA Materials	Mobilization	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Place and Compact Fill or ABC or GSA Materials	Per Inch of Thickness	SQFT	\$ 0.45	\$ 0.57	\$ 0.59	\$ 0.55	\$ 0.57	\$ 0.55	\$ 0.57		
Grade Area	Mobilization	Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Grade Area	Grade Area	SQYD	\$ 3.08	\$ 3.91	\$ 4.07	\$ 3.76	\$ 3.91	\$ 3.76	\$ 3.91		
Soil Stabilization Cement	Mobilization	Flat Fee	\$ 11,200.00	\$ 14,224.00	\$ 14,784.00	\$ 13,664.00	\$ 14,224.00	\$ 13,664.00	\$ 14,224.00		
Soil Stabilization Cement	Blend/Compact at 4% Volume at 6"	SQYD	\$ 6.72	\$ 8.53	\$ 8.87	\$ 8.20	\$ 8.53	\$ 8.20	\$ 8.53		

Item Categories	Asphalt Cost Form			Zone/Region #:	3	1	2	4	5	6	7					
	IFB 17-16P Asphalt Products and Services															
	Company Name: Sunland Asphalt & Construction															
	Instructions: Bidder shall provide pricing for the various services allowed under this IFB. List additional labor and/or services rates for															
Service Category	Service Description: See Note #1 Below	UOM	112%	Unit Price - Zone 3	127%	Unit Price - Zone 1	132%	Unit Price - Zone 2	122%	Unit Price - Zone 4	127%	Unit Price - Zone 5	122%	Unit Price - Zone 6	127%	Unit Price - Zone 7
Soil Stabilization Cement	Blend/Compact at 4% Volume at 8"	SQYD	\$	7.84	\$	9.96	\$	10.35	\$	9.56	\$	9.96	\$	9.56	\$	9.96
Soil Stabilization Cement	Blend/Compact at 4% Volume by 12"	SQYD	\$	9.52	\$	12.09	\$	12.57	\$	11.61	\$	12.09	\$	11.61	\$	12.09
Soil Stabilization Cement	Blend/Compact at 6% Volume at 6"	SQYD	\$	7.84	\$	9.96	\$	10.35	\$	9.56	\$	9.96	\$	9.56	\$	9.96
Soil Stabilization Cement	Blend/Compact at 6% Volume at 8"	SQYD	\$	9.52	\$	12.09	\$	12.57	\$	11.61	\$	12.09	\$	11.61	\$	12.09
Soil Stabilization Cement	Blend/Compact at 6% Volume at 12"	SQYD	\$	11.76	\$	14.94	\$	15.52	\$	14.35	\$	14.94	\$	14.35	\$	14.94
Soil Stabilization Cement	Blend/Compact at 9% Volume at 6"	SQYD	\$	9.52	\$	12.09	\$	12.57	\$	11.61	\$	12.09	\$	11.61	\$	12.09
Soil Stabilization Cement	Blend/Compact at 9% Volume at 8"	SQYD	\$	11.20	\$	14.22	\$	14.78	\$	13.66	\$	14.22	\$	13.66	\$	14.22
Soil Stabilization Cement	Blend/Compact at 9% Volume at 12"	SQYD	\$	14.56	\$	18.49	\$	19.22	\$	17.76	\$	18.49	\$	17.76	\$	18.49
Soil Stabilization Hydrated Lime	Mobilization	Flat Fee	\$	11,200.00	\$	14,224.00	\$	14,784.00	\$	13,664.00	\$	14,224.00	\$	13,664.00	\$	14,224.00
Soil Stabilization Hydrated Lime	Blend/Compact at 2% Volume at 6"	SQYD	\$	6.72	\$	8.53	\$	8.87	\$	8.20	\$	8.53	\$	8.20	\$	8.53
Soil Stabilization Hydrated Lime	Blend/Compact at 2% Volume at 8"	SQYD	\$	7.84	\$	9.96	\$	10.35	\$	9.56	\$	9.96	\$	9.56	\$	9.96
Soil Stabilization Hydrated Lime	Blend/Compact at 2% Volume by 12"	SQYD	\$	9.52	\$	12.09	\$	12.57	\$	11.61	\$	12.09	\$	11.61	\$	12.09
Soil Stabilization Hydrated Lime	Blend/Compact at 4% Volume at 6"	SQYD	\$	7.84	\$	9.96	\$	10.35	\$	9.56	\$	9.96	\$	9.56	\$	9.96
Soil Stabilization Hydrated Lime	Blend/Compact at 4% Volume at 8"	SQYD	\$	9.52	\$	12.09	\$	12.57	\$	11.61	\$	12.09	\$	11.61	\$	12.09
Soil Stabilization Hydrated Lime	Blend/Compact at 4% Volume at 12"	SQYD	\$	11.76	\$	14.94	\$	15.52	\$	14.35	\$	14.94	\$	14.35	\$	14.94
Soil Stabilization Hydrated Lime	Blend/Compact at 6% Volume at 6"	SQYD	\$	9.52	\$	12.09	\$	12.57	\$	11.61	\$	12.09	\$	11.61	\$	12.09
Soil Stabilization Hydrated Lime	Blend/Compact at 6% Volume at 8"	SQYD	\$	11.20	\$	14.22	\$	14.78	\$	13.66	\$	14.22	\$	13.66	\$	14.22
Soil Stabilization Hydrated Lime	Blend/Compact at 6% Volume at 12"	SQYD	\$	14.56	\$	18.49	\$	19.22	\$	17.76	\$	18.49	\$	17.76	\$	18.49
Dust Palative	Mobilization	Flat Fee	\$	1,680.00	\$	2,133.60	\$	2,217.60	\$	2,049.60	\$	2,133.60	\$	2,049.60	\$	2,133.60
Dust Palative	Topical Application 1 to 5,000 SQYD	Per SQYD	\$	4.20	\$	5.33	\$	5.54	\$	5.12	\$	5.33	\$	5.12	\$	5.33
Dust Palative	Topical Application 5,001 to 10,000 SQYD	Per SQYD	\$	1.40	\$	1.78	\$	1.85	\$	1.71	\$	1.78	\$	1.71	\$	1.78
Dust Palative	Topical Application 10,001 to 20,000 SQYD	Per SQYD	\$	1.12	\$	1.42	\$	1.48	\$	1.37	\$	1.42	\$	1.37	\$	1.42
Dust Palative	Topical Application 20,001+ SQYD	Per SQYD	\$	1.01	\$	1.28	\$	1.33	\$	1.23	\$	1.28	\$	1.23	\$	1.28
Dust Palative	Blended Application to 6", 1 to 5,000 SQYD	Per SQYD	\$	11.20	\$	14.22	\$	14.78	\$	13.66	\$	14.22	\$	13.66	\$	14.22
Dust Palative	Blended Application to 6", 5,001 to 10,000 SQYD	Per SQYD	\$	8.96	\$	11.38	\$	11.83	\$	10.93	\$	11.38	\$	10.93	\$	11.38
Dust Palative	Blended Application to 6", 10,001 to 20,000 SQYD	Per SQYD	\$	6.72	\$	8.53	\$	8.87	\$	8.20	\$	8.53	\$	8.20	\$	8.53
Dust Palative	Blended Application to 6", 20,001+ SQYD	Per SQYD	\$	4.48	\$	5.69	\$	5.91	\$	5.47	\$	5.69	\$	5.47	\$	5.69
Soil Sterilization	Mobilization	Flat Fee	\$	560.00	\$	711.20	\$	739.20	\$	683.20	\$	711.20	\$	683.20	\$	711.20
Soil Sterilization	1 to 50,000 SQFT	Per SQFT	\$	0.06	\$	0.07	\$	0.07	\$	0.07	\$	0.07	\$	0.07	\$	0.07
Soil Sterilization	50,001 to 100,000 SQFT	Per SQFT	\$	0.06	\$	0.07	\$	0.07	\$	0.07	\$	0.07	\$	0.07	\$	0.07
Soil Sterilization	100,001 to 200,000 SQFT	Per SQFT	\$	0.04	\$	0.06	\$	0.06	\$	0.05	\$	0.06	\$	0.05	\$	0.06
Soil Sterilization	200,001+ SQFT	Per SQFT	\$	0.03	\$	0.04	\$	0.04	\$	0.04	\$	0.04	\$	0.04	\$	0.04
Single Pass Asphalt Recycling	Mobilization	Flat Fee	\$	5,040.80	\$	6,400.80	\$	6,652.80	\$	6,148.80	\$	6,400.80	\$	6,148.80	\$	6,400.80
Single Pass Asphalt Recycling	2" Asphaltic Concrete	SQFT	\$	1.68	\$	2.13	\$	2.22	\$	2.05	\$	2.13	\$	2.05	\$	2.13
Single Pass Asphalt Recycling	3" Asphaltic Concrete	SQFT	\$	2.52	\$	3.20	\$	3.33	\$	3.07	\$	3.20	\$	3.07	\$	3.20
Single Pass Asphalt Recycling	4" Asphaltic Concrete	SQFT	\$	3.36	\$	4.27	\$	4.44	\$	4.10	\$	4.27	\$	4.10	\$	4.27
Single Pass Asphalt Recycling	5" Asphaltic Concrete	SQFT	\$	4.20	\$	5.33	\$	5.54	\$	5.12	\$	5.33	\$	5.12	\$	5.33
Striping and Safety	Mobilization - Acrylic Striping	Flat Fee	\$	560.00	\$	711.20	\$	739.20	\$	683.20	\$	711.20	\$	683.20	\$	711.20
Striping and Safety	Mobilization - Thermoplastic	Flat Fee	\$	1,400.00	\$	1,778.00	\$	1,848.00	\$	1,708.00	\$	1,778.00	\$	1,708.00	\$	1,778.00
Striping and Safety	Restripe: Acrylic 4" Wide	LF	\$	0.28	\$	0.36	\$	0.37	\$	0.34	\$	0.36	\$	0.34	\$	0.36
Striping and Safety	Restripe: Acrylic 6" Wide	LF	\$	0.39	\$	0.50	\$	0.52	\$	0.48	\$	0.50	\$	0.48	\$	0.50
Striping and Safety	Restripe: Acrylic 8" Wide	LF	\$	0.50	\$	0.64	\$	0.67	\$	0.61	\$	0.64	\$	0.61	\$	0.64
Striping and Safety	Restripe: Acrylic 12" Wide	LF	\$	0.67	\$	0.85	\$	0.89	\$	0.82	\$	0.85	\$	0.82	\$	0.85
Striping and Safety	New Layout: Acrylic 4" Wide	LF	\$	0.56	\$	0.71	\$	0.74	\$	0.68	\$	0.71	\$	0.68	\$	0.71
Striping and Safety	New Layout: Acrylic 6" Wide	LF	\$	0.67	\$	0.85	\$	0.89	\$	0.82	\$	0.85	\$	0.82	\$	0.85
Striping and Safety	New Layout: Acrylic 8" Wide	LF	\$	0.78	\$	1.00	\$	1.03	\$	0.96	\$	1.00	\$	0.96	\$	1.00
Striping and Safety	New Layout: Acrylic 12" Wide	LF	\$	0.90	\$	1.14	\$	1.18	\$	1.09	\$	1.14	\$	1.09	\$	1.14
Striping and Safety	Thermoplastic, 4" Wide	LF	\$	0.67	\$	0.85	\$	0.89	\$	0.82	\$	0.85	\$	0.82	\$	0.85
Striping and Safety	Thermoplastic, 6" Wide	LF	\$	1.40	\$	1.78	\$	1.85	\$	1.71	\$	1.78	\$	1.71	\$	1.78
Striping and Safety	Thermoplastic, 8" Wide	LF	\$	1.68	\$	2.13	\$	2.22	\$	2.05	\$	2.13	\$	2.05	\$	2.13
Striping and Safety	Thermoplastic, 12" Wide	LF	\$	2.80	\$	3.56	\$	3.70	\$	3.42	\$	3.56	\$	3.42	\$	3.56
Striping and Safety	Glass Beads, 4" Line	LF	\$	0.17	\$	0.21	\$	0.22	\$	0.20	\$	0.21	\$	0.20	\$	0.21
Striping and Safety	Glass Beads, 6" Line	LF	\$	0.28	\$	0.36	\$	0.37	\$	0.34	\$	0.36	\$	0.34	\$	0.36
Striping and Safety	Glass Beads, 8" Line	LF	\$	0.34	\$	0.43	\$	0.44	\$	0.41	\$	0.43	\$	0.41	\$	0.43
Striping and Safety	Glass Beads, 12" Line	LF	\$	0.45	\$	0.57	\$	0.59	\$	0.55	\$	0.57	\$	0.55	\$	0.57
Striping and Safety	Curb (Top and Face), Red	LF	\$	0.95	\$	1.21	\$	1.26	\$	1.16	\$	1.21	\$	1.16	\$	1.21
Striping and Safety	Curb (Top and Face), Other Colors	LF	\$	0.95	\$	1.21	\$	1.26	\$	1.16	\$	1.21	\$	1.16	\$	1.21
Striping and Safety	Handicap Stencils	Each	\$	56.00	\$	71.12	\$	73.92	\$	68.32	\$	71.12	\$	68.32	\$	71.12

Item Categories	Asphalt Cost Form			Greater Phoenix Region- Maricopa	East Region - Gila, Navajo & Apache	East Region - Greenlee, Graham	North Region- Yavapai & Coconino	North West Region- Mohave	South Region- Pinal, Pima, Cochise & Santa Cruz	West Region- Yuma & La Paz	
	IFB 17-16P Asphalt Products and Services										
	Company Name: Sunland Asphalt & Construction										
	Instructions: Bidder shall provide pricing for the various services allowed under this IFB. List additional labor and/or services rates for			Zone/Region #:	3	1	2	4	5	6	7
					112%	127%	132%	122%	127%	122%	127%
Service Category	Service Description:	See Note #1 Below	UOM	Unit Price - Zone 3	Unit Price - Zone 1	Unit Price - Zone 2	Unit Price- Zone 4	Unit Price - Zone 5	Unit Price - Zone 6	Unit Price - Zone 7	
Striping and Safety	3' Arrows		Each	\$ 22.40	\$ 28.45	\$ 29.57	\$ 27.33	\$ 28.45	\$ 27.33	\$ 28.45	
Striping and Safety	6' Arrows		Each	\$ 44.80	\$ 56.90	\$ 59.14	\$ 54.66	\$ 56.90	\$ 54.66	\$ 56.90	
Striping and Safety	4-6" Numbers/Letters		Each	\$ 1.68	\$ 2.13	\$ 2.22	\$ 2.05	\$ 2.13	\$ 2.05	\$ 2.13	
Striping and Safety	10-12" Numbers/Letters		Each	\$ 2.24	\$ 2.84	\$ 2.96	\$ 2.73	\$ 2.84	\$ 2.73	\$ 2.84	
Striping and Safety	20-24" Numbers/Letters		Each	\$ 5.60	\$ 7.11	\$ 7.39	\$ 6.83	\$ 7.11	\$ 6.83	\$ 7.11	
Striping and Safety	30-36" Numbers/Letters		Each	\$ 11.20	\$ 14.22	\$ 14.78	\$ 13.66	\$ 14.22	\$ 13.66	\$ 14.22	
Striping and Safety	6' Department of Transportation Letters or Numbers		Each	\$ 56.00	\$ 71.12	\$ 73.92	\$ 68.32	\$ 71.12	\$ 68.32	\$ 71.12	
Striping and Safety	Speed Bump Stripe		Each	\$ 173.60	\$ 220.47	\$ 229.15	\$ 211.79	\$ 220.47	\$ 211.79	\$ 220.47	
Striping and Safety	Speed Hump 3' Stripe		Each	\$ 235.20	\$ 298.70	\$ 310.46	\$ 286.94	\$ 298.70	\$ 286.94	\$ 298.70	
Striping and Safety	Speed Hump 12' Stripe		Each	\$ 252.00	\$ 320.04	\$ 332.64	\$ 307.44	\$ 320.04	\$ 307.44	\$ 320.04	
Striping and Safety	Speed Hump 14' Stripe		Each	\$ 263.20	\$ 334.26	\$ 347.42	\$ 321.10	\$ 334.26	\$ 321.10	\$ 334.26	
Striping and Safety	Speed Table 22' Stripe		Each	\$ 347.20	\$ 440.94	\$ 458.30	\$ 423.58	\$ 440.94	\$ 423.58	\$ 440.94	
Striping and Safety	Paint 4" Bollard		Each	\$ 22.40	\$ 28.45	\$ 29.57	\$ 27.33	\$ 28.45	\$ 27.33	\$ 28.45	
Striping and Safety	Paint 6" Bollard		Each	\$ 28.00	\$ 35.56	\$ 36.96	\$ 34.16	\$ 35.56	\$ 34.16	\$ 35.56	
Striping and Safety	Paint 8" Bollard		Each	\$ 33.60	\$ 42.67	\$ 44.35	\$ 40.99	\$ 42.67	\$ 40.99	\$ 42.67	
Striping and Safety	Signage with 2" Round Post or U-Channel		Each	\$ 392.00	\$ 497.84	\$ 517.44	\$ 478.24	\$ 497.84	\$ 478.24	\$ 497.84	
Striping and Safety	Signage with 2" Round Post or U-Channel in Concrete		Each	\$ 560.00	\$ 711.20	\$ 739.20	\$ 683.20	\$ 711.20	\$ 683.20	\$ 711.20	
Striping and Safety	Installation - Stop and Sign Post		Each	\$ 504.00	\$ 640.08	\$ 665.28	\$ 614.88	\$ 640.08	\$ 614.88	\$ 640.08	
Striping and Safety	Fire Lane Sign and Post, Single Sided		Each	\$ 392.00	\$ 497.84	\$ 517.44	\$ 478.24	\$ 497.84	\$ 478.24	\$ 497.84	
Striping and Safety	Handicapped Sign and Post, Single Sided		Each	\$ 392.00	\$ 497.84	\$ 517.44	\$ 478.24	\$ 497.84	\$ 478.24	\$ 497.84	
Striping and Safety	Double-Sided Sign and Post		Each	\$ 560.00	\$ 711.20	\$ 739.20	\$ 683.20	\$ 711.20	\$ 683.20	\$ 711.20	
Striping and Safety	Ceramic Reflector - Installed		Each	\$ 39.20	\$ 49.78	\$ 51.74	\$ 47.82	\$ 49.78	\$ 47.82	\$ 49.78	
Striping and Safety	Square Reflector, Installed		Each	\$ 28.00	\$ 35.56	\$ 36.96	\$ 34.16	\$ 35.56	\$ 34.16	\$ 35.56	
Striping and Safety	Blue Reflector, Installed		Each	\$ 28.00	\$ 35.56	\$ 36.96	\$ 34.16	\$ 35.56	\$ 34.16	\$ 35.56	
Manhole Adjustments	Mobilization		Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92	
Manhole Adjustments	Charge to Lower		Each	\$ 224.00	\$ 284.48	\$ 295.68	\$ 273.28	\$ 284.48	\$ 273.28	\$ 284.48	
Manhole Adjustments	Charge to Raise		Each	\$ 504.00	\$ 640.08	\$ 665.28	\$ 614.88	\$ 640.08	\$ 614.88	\$ 640.08	
Water or Sewer or Gas Cover Adjustments	Mobilization		Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92	
Water or Sewer or Gas Cover Adjustments	Charge to Lower		Each	\$ 224.00	\$ 284.48	\$ 295.68	\$ 273.28	\$ 284.48	\$ 273.28	\$ 284.48	
Water or Sewer or Gas Cover Adjustments	Charge to Raise		Each	\$ 448.00	\$ 568.96	\$ 591.36	\$ 546.56	\$ 568.96	\$ 546.56	\$ 568.96	
Survey Monuments	Mobilization		Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92	
Survey Monuments	Type A: Charge to Lower		Each	\$ 224.00	\$ 284.48	\$ 295.68	\$ 273.28	\$ 284.48	\$ 273.28	\$ 284.48	
Survey Monuments	Type A: Charge to Raise		Each	\$ 448.00	\$ 568.96	\$ 591.36	\$ 546.56	\$ 568.96	\$ 546.56	\$ 568.96	
Survey Monuments	Type B: Charge to Lower		Each	\$ 224.00	\$ 284.48	\$ 295.68	\$ 273.28	\$ 284.48	\$ 273.28	\$ 284.48	
Survey Monuments	Type B: Charge to Raise		Each	\$ 336.00	\$ 426.72	\$ 443.52	\$ 409.92	\$ 426.72	\$ 409.92	\$ 426.72	
Riser Ring Adjustments	Mobilization		Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92	
Riser Ring Adjustments	Manhole		Each	\$ 504.00	\$ 640.08	\$ 665.28	\$ 614.88	\$ 640.08	\$ 614.88	\$ 640.08	
Riser Ring Adjustments	Water/Sewer		Each	\$ 336.00	\$ 426.72	\$ 443.52	\$ 409.92	\$ 426.72	\$ 409.92	\$ 426.72	
Concrete Single Curb 6 inch x 18 inch	Mobilization		Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00	
Concrete Single Curb 6 inch x 18 inch	1-200	LF	\$	44.80	\$ 56.90	\$ 59.14	\$ 54.66	\$ 56.90	\$ 54.66	\$ 56.90	
Concrete Single Curb 6 inch x 18 inch	201-500	LF	\$	39.20	\$ 49.78	\$ 51.74	\$ 47.82	\$ 49.78	\$ 47.82	\$ 49.78	
Concrete Single Curb 6 inch x 18 inch	501-1000	LF	\$	33.60	\$ 42.67	\$ 44.35	\$ 40.99	\$ 42.67	\$ 40.99	\$ 42.67	
Concrete Single Curb 6 inch x 18 inch	1001+	LF	\$	28.00	\$ 35.56	\$ 36.96	\$ 34.16	\$ 35.56	\$ 34.16	\$ 35.56	
Concrete Curb and Gutter 6 inch High Curb and 6 inch Thick Gutter	Mobilization		Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00	
Concrete Curb and Gutter 6 Inch High Curb and 6 Inch Thick Gutter	1-200	LF	\$	56.00	\$ 71.12	\$ 73.92	\$ 68.32	\$ 71.12	\$ 68.32	\$ 71.12	
Concrete Curb and Gutter 6 Inch High Curb and 6 Inch Thick Gutter	201-500	LF	\$	44.80	\$ 56.90	\$ 59.14	\$ 54.66	\$ 56.90	\$ 54.66	\$ 56.90	
Concrete Curb and Gutter 6 Inch High Curb and 6 Inch Thick Gutter	501-1000	LF	\$	39.20	\$ 49.78	\$ 51.74	\$ 47.82	\$ 49.78	\$ 47.82	\$ 49.78	
Concrete Curb and Gutter 6 Inch High Curb and 6 Inch Thick Gutter	1000+	LF	\$	33.60	\$ 42.67	\$ 44.35	\$ 40.99	\$ 42.67	\$ 40.99	\$ 42.67	
Concrete Flatwork	Mobilization		Flat Fee	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00	
Concrete Flatwork	4" Thick per SQFT - 1 to 500 SQFT	SQFT	\$	10.08	\$ 12.80	\$ 13.31	\$ 12.30	\$ 12.80	\$ 12.30	\$ 12.80	
Concrete Flatwork	4" Thick per SQFT - 501 to 1000 SQFT	SQFT	\$	8.96	\$ 11.38	\$ 11.83	\$ 10.93	\$ 11.38	\$ 10.93	\$ 11.38	
Concrete Flatwork	4" Thick per SQFT - 1001+ SQFT	SQFT	\$	7.84	\$ 9.96	\$ 10.35	\$ 9.56	\$ 9.96	\$ 9.56	\$ 9.96	
Concrete Flatwork	6" Thick per SQFT - 1 to 500 SQFT	SQFT	\$	13.44	\$ 17.07	\$ 17.74	\$ 16.40	\$ 17.07	\$ 16.40	\$ 17.07	
Concrete Flatwork	6" Thick per SQFT - 501 to 1000 SQFT	SQFT	\$	12.32	\$ 15.65	\$ 16.26	\$ 15.03	\$ 15.65	\$ 15.03	\$ 15.65	
Concrete Flatwork	6" Thick per SQFT - 1001+ SQFT	SQFT	\$	11.20	\$ 14.22	\$ 14.78	\$ 13.66	\$ 14.22	\$ 13.66	\$ 14.22	

Item Categories	Asphalt Cost Form			Zone/Region #:	3	1	2	4	5	6	7
	IFB 17-16P Asphalt Products and Services										
	Company Name: Sunland Asphalt & Construction										
	Instructions: Bidder shall provide pricing for the various services allowed under this IFB. List additional labor and/or services rates for										
				112%	127%	132%	122%	127%	122%	127%	
Service Category	Service Description: See Note #1 Below	UOM	Unit Price - Zone 3	Unit Price - Zone 1	Unit Price - Zone 2	Unit Price - Zone 4	Unit Price - Zone 5	Unit Price - Zone 6	Unit Price - Zone 7		
Concrete Flatwork	8" Thick per SQFT - 1 to 500 SQFT	SQFT	\$ 15.68	\$ 19.91	\$ 20.70	\$ 19.13	\$ 19.91	\$ 19.13	\$ 19.91		
Concrete Flatwork	8" Thick per SQFT - 501 to 1000 SQFT	SQFT	\$ 14.56	\$ 18.49	\$ 19.22	\$ 17.76	\$ 18.49	\$ 17.76	\$ 18.49		
Concrete Flatwork	8" Thick per SQFT - 1001+ SQFT	SQFT	\$ 13.44	\$ 17.07	\$ 17.74	\$ 16.40	\$ 17.07	\$ 16.40	\$ 17.07		
Concrete Flatwork	12" Thick per SQFT - 1 to 500 SQFT	SQFT	\$ 24.64	\$ 31.29	\$ 32.52	\$ 30.06	\$ 31.29	\$ 30.06	\$ 31.29		
Concrete Flatwork	12" Thick per SQFT - 501 to 1000 SQFT	SQFT	\$ 23.52	\$ 29.87	\$ 31.05	\$ 28.69	\$ 29.87	\$ 28.69	\$ 29.87		
Concrete Flatwork	12" Thick per SQFT - 1001+ SQFT	SQFT	\$ 22.40	\$ 28.45	\$ 29.57	\$ 27.33	\$ 28.45	\$ 27.33	\$ 28.45		
Concrete Flatwork	Additional Charge for Wire Mesh	SQFT	\$ 1.68	\$ 2.13	\$ 2.22	\$ 2.05	\$ 2.13	\$ 2.05	\$ 2.13		
Concrete Flatwork	Additional Charge for Fiber Mesh	SQFT	\$ 2.24	\$ 2.84	\$ 2.96	\$ 2.73	\$ 2.84	\$ 2.73	\$ 2.84		
Concrete Flatwork	Additional Charge for #3 Rebar	SQFT	\$ 2.24	\$ 2.84	\$ 2.96	\$ 2.73	\$ 2.84	\$ 2.73	\$ 2.84		
Concrete Flatwork	Additional Charge for Post Tension	SQFT	\$ 2.24	\$ 2.84	\$ 2.96	\$ 2.73	\$ 2.84	\$ 2.73	\$ 2.84		
Concrete Doweling	3/8"x12" Steel Dowels, Installed	Each	\$ 50.40	\$ 64.01	\$ 66.53	\$ 61.49	\$ 64.01	\$ 61.49	\$ 64.01		
Concrete Doweling	1/2"x12" Steel Dowels, Installed	Each	\$ 56.00	\$ 71.12	\$ 73.92	\$ 68.32	\$ 71.12	\$ 68.32	\$ 71.12		
Concrete Extruded Curb - No Rebar	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Concrete Extruded Curb - No Rebar	1 to 300 per Linear Foot	LF	\$ 11.20	\$ 14.22	\$ 14.78	\$ 13.66	\$ 14.22	\$ 13.66	\$ 14.22		
Concrete Extruded Curb - No Rebar	301 to 500 per Linear Foot	LF	\$ 10.08	\$ 12.80	\$ 13.31	\$ 12.30	\$ 12.80	\$ 12.30	\$ 12.80		
Concrete Extruded Curb - No Rebar	501+ per Linear Foot	LF	\$ 8.96	\$ 11.38	\$ 11.83	\$ 10.93	\$ 11.38	\$ 10.93	\$ 11.38		
Concrete Extruded Curb - With Rebar	Mobilization	Flat Fee	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Concrete Extruded Curb - With Rebar	1 to 300 per Linear Foot	LF	\$ 17.92	\$ 22.76	\$ 23.65	\$ 21.86	\$ 22.76	\$ 21.86	\$ 22.76		
Concrete Extruded Curb - With Rebar	301 to 500 per Linear Foot	LF	\$ 16.80	\$ 21.34	\$ 22.18	\$ 20.50	\$ 21.34	\$ 20.50	\$ 21.34		
Concrete Extruded Curb - With Rebar	501+ per Linear Foot	LF	\$ 15.68	\$ 19.91	\$ 20.70	\$ 19.13	\$ 19.91	\$ 19.13	\$ 19.91		
Precast Safety Curbs	Mobilization	Flat Fee	\$ 448.00	\$ 568.96	\$ 591.36	\$ 546.56	\$ 568.96	\$ 546.56	\$ 568.96		
Precast Safety Curbs	Remove and Stockpile Existing Curbs	Each	\$ 22.40	\$ 28.45	\$ 29.57	\$ 27.33	\$ 28.45	\$ 27.33	\$ 28.45		
Precast Safety Curbs	Repin Existing Curbs	Each	\$ 22.40	\$ 28.45	\$ 29.57	\$ 27.33	\$ 28.45	\$ 27.33	\$ 28.45		
Precast Safety Curbs	New 6' Curbs, 1 to 20 per each	Each	\$ 112.00	\$ 142.24	\$ 147.84	\$ 136.64	\$ 142.24	\$ 136.64	\$ 142.24		
Precast Safety Curbs	New 6' Curbs, 21+ per each	Each	\$ 100.80	\$ 128.02	\$ 133.06	\$ 122.98	\$ 128.02	\$ 122.98	\$ 128.02		
Safety Bollards	Mobilization	Flat Fee	\$ 448.00	\$ 568.96	\$ 591.36	\$ 546.56	\$ 568.96	\$ 546.56	\$ 568.96		
Safety Bollards	4" Diameter, Concrete Filled	Each	\$ 672.00	\$ 853.44	\$ 887.04	\$ 819.84	\$ 853.44	\$ 819.84	\$ 853.44		
Safety Bollards	6" Diameter, Concrete Filled	Each	\$ 784.00	\$ 995.68	\$ 1,034.88	\$ 956.48	\$ 995.68	\$ 956.48	\$ 995.68		
Safety Bollards	8" Diameter, Concrete Filled	Each	\$ 896.00	\$ 1,137.92	\$ 1,182.72	\$ 1,093.12	\$ 1,137.92	\$ 1,093.12	\$ 1,137.92		
Construction Survey	Registered Surveyor, 1 Man and Equipment	Per Hour	\$ 224.00	\$ 284.48	\$ 295.68	\$ 273.28	\$ 284.48	\$ 273.28	\$ 284.48		
Construction Survey	Non-Registered Surveyor, 2 Men and Equipment	Per Hour	\$ 196.00	\$ 248.92	\$ 258.72	\$ 239.12	\$ 248.92	\$ 239.12	\$ 248.92		
Other	Asphalt Cleaning/Prep	SQFT	\$ 0.02	\$ 0.03	\$ 0.03	\$ 0.03	\$ 0.03	\$ 0.03	\$ 0.03		
Other	Traffic Control	Per Day	\$ 1,680.00	\$ 2,133.60	\$ 2,217.60	\$ 2,049.60	\$ 2,133.60	\$ 2,049.60	\$ 2,133.60		
Other	Sweeping	Per Hour	\$ 156.80	\$ 199.14	\$ 206.98	\$ 191.30	\$ 199.14	\$ 191.30	\$ 199.14		
Other	Traffic Control, Residential Street	Per Day	\$ 2,800.00	\$ 3,556.00	\$ 3,696.00	\$ 3,416.00	\$ 3,556.00	\$ 3,416.00	\$ 3,556.00		
Other	Traffic Control, Collector Street	Per Day	\$ 3,920.00	\$ 4,978.40	\$ 5,174.40	\$ 4,782.40	\$ 4,978.40	\$ 4,782.40	\$ 4,978.40		
Other	Traffic Control, Arterial Street	Per Day	\$ 5,040.00	\$ 6,400.80	\$ 6,652.80	\$ 6,148.80	\$ 6,400.80	\$ 6,148.80	\$ 6,400.80		
Other	Per Diem, Per Man Per Night	Each	\$ 84.00	\$ 106.68	\$ 110.88	\$ 102.48	\$ 106.68	\$ 102.48	\$ 106.68		
Other	Lodging, Per Man Per Night	Each	\$ 140.00	\$ 177.80	\$ 184.80	\$ 170.80	\$ 177.80	\$ 170.80	\$ 177.80		
Other	Trucking/Hauling - General Freight	Hour	\$ 168.00	\$ 213.36	\$ 221.76	\$ 204.96	\$ 213.36	\$ 204.96	\$ 213.36		
Other	General Labor	Man Hour	\$ 84.00	\$ 106.68	\$ 110.88	\$ 102.48	\$ 106.68	\$ 102.48	\$ 106.68		
Other				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Other				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Other				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Other				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Other				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		

Note #1: Mobilization charges quoted above are based on the assigned Production Center that will be responsible to complete the project. Additional Mobilization charges may be required since not all Production Centers have the same equipment available in-house. Equipment from another Production Center may have to be moved to the project site to facilitate the completion of the project. Additional Freight or haul charges will be based on the price as stated in Tab C of this document. Sunland has Production Centers in Albuquerque, NM; Denver, CO; Henderson, NV; Phoenix, AZ and Tucson, AZ. In addition, we have Construction Partners in some 23 states that can provide excellent products and services to us as needed.



Board Recommendation for Contract Award

DATE: May 25, 2022

TO: Pinal County ESA

FROM: 1GPA
Christy Knorr
Vice President

RE: Asphalt Products and Services
IFB 22-15P

It is the recommendation of 1GPA that the above referenced IFB for Asphalt Products and Services be awarded to the firms determined to have submitted the lowest responsible and responsive bids as indicated below:

Awarded Firms

Cactus Asphalt
Copper State Pavement Inc.
Roadrunner Paving & Asphalt Maintenance LLC
Sunland Asphalt & Construction LLC
Weems Asphalt LLC

The purpose of this Invitation for Bid (IFB) is to establish long-term contracts with qualified firms that provide asphalt products and services to products, installation, repair, maintenance and replacement on an as needed basis to 1GPA Members.

The Bid Opening for this solicitation was held on April 25, 2022 virtually via Vast Conference. Six (6) bids were received and reviewed by 1GPA.

It is determined a single award is not advantageous to 1GPA's Members. The solicitation authorized multiple awards to meet the needs of 1GPA's various types of members and locations in Arizona and other states. Award is recommended to the least number of lowest responsible, responsive bidders whose bids conform in all material respects to the requirements and evaluation criteria set forth in the IFB. The recommended firms offer a variety of asphalt products and services.

This is a multi-year contract beginning from date of award for one year. The contract may be extended up to a maximum of four (4) additional years on a year-to-year basis. Annual renewals would be based

solely on the determination of 1GPA as to the performance, costs and general quality of the services provided by the successful vendors selected.

Christy Knorr

Christy Knorr,
Vice President 1Government
Procurement Alliance (1GPA)

APPROVED:

Jill M Broussard

Jill Broussard, Superintendent
Mary C. O'Brien Accommodation
School/Pinal County ESA



**DETERMINATION: MULTIPLE AWARD
Asphalt Products and Services
Invitation For Bid # 22-15P**

In accordance with the requirements of A.A.C. R7-2-1031, a multiple award is necessary, advantageous, and is in the best interest of the 1GPA Members.

The basis for determining whether to award a multiple contract, as stated in the IFB, is based upon consideration for Members' experience with existing products and systems, continuity for parts replacement and future expansion, contractor's ability to provide for a large diverse Membership and geographic areas served. The awards will be limited to the least number of Offerors that 1GPA determines is necessary to meet the needs of its members. The actual use of the contract will be at the sole discretion of the Members.

Recommended for Award (alpha order):

Cactus Asphalt	• Fifth lowest bidder overall • Serves all regions of Arizona • Offers Cool Seal product line • The firm has no active exclusions or restrictions through the System for Award Management
Copper State Pavement, Inc.	• Lowest bidder overall • Serves all regions of Arizona • The firm has no active exclusions or restrictions through the System for Award Management
Roadrunner Paving & Asphalt Maintenance LLC	• Second lowest bidder overall • Serves all regions of Arizona • The firm has no active exclusions or restrictions through the System for Award Management
Sunland Asphalt & Construction LLC	• Third lowest bidder overall • Serves Members on a national basis • Carries a wide variety of manufacturers in each category • Offers a broad range of asphalt related services • The firm has no active exclusions or restrictions through the System for Award Management
Weems Asphalt LLC	• Fourth lowest bidder overall • Serves all regions of Arizona • The firm has no active exclusions or restrictions through the System for Award Management

1GPA currently has over 300 members within the 113,998 square miles of the State of Arizona alone. The current market conditions have also led to an unstable supply chain and labor source. Our school district members are often planning projects during the times school is out of session. A multiple award is necessary to support the project and schedule needs of 1GPA Members. No one vendor can meet all the needs of 1GPA Members for asphalt products and services.

1GPA recommends Members prepare a Written Determination that specifies the reasons the vendor was chosen to satisfy the requirements of Arizona rule R7-2-1004 Written Determinations: "Written determinations required by Articles 10 and 11, including for any specified professional services, construction, construction services or materials to an entity selected from a qualified select bidders list or through a school purchasing cooperative, shall specify the reasons for the determination, including how the determination was made."

Based upon these factors, the Lead Agency and 1GPA have determined the necessity of a multiple award for asphalt products and services. A single award is not advantageous to 1GPA's Members. The contract award recommendation is to the least number of suppliers necessary to meet the needs of 1GPA Members.

Not Recommended for Award:

- DCS Contracting, Inc.

Christy Knorr

Christy Knorr, Vice President
1 Government Procurement Alliance (1GPA)

Jill M Broussard

Jill Broussard, Superintendent
Mary C. O'Brien Accommodation
School/Pinal County ESA



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/5/2024

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 Reseco Insurance Advisors, LLC 7901 N. 16th Street, Suite 100 Phoenix AZ 85020	CONTACT NAME: PHONE (A/C, No, Ext): 602-753-4250 FAX (A/C, No): 602-419-2242 E-MAIL ADDRESS: certificates@resecoadvisors.com
INSURED Sunland Asphalt & Construction, LLC dba Sunland Asphalt 1625 E. Northern Avenue Phoenix AZ 85020	INSURER(S) AFFORDING COVERAGE INSURER A: National Union Fire Ins Co of PA INSURER B: Endurance American Insurance Co INSURER C: Homesite Insurance Company of Florida INSURER D: Travelers Excess and Surplus Lines Company INSURER E: Travelers Property Casualty Co of Amer INSURER F:

COVERAGES**CERTIFICATE NUMBER:** 539215321**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 ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	GL9925617	4/1/2024	4/1/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	Y	Y	CA9775927	4/1/2024	4/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C D	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ \$10,000	Y	Y	CXP 016711 01 EX-2T42594A-24-NF	4/1/2024 4/1/2024	4/1/2025 4/1/2025	EACH OCCURRENCE \$15,000,000 AGGREGATE \$15,000,000 \$
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 ☐	Y	WC11569704	4/1/2024	4/1/2025	☒ 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
B E	Prof/Poli Liability Bldrs Risk Installation Floater Aviation Liability		Y Y	PNV10015397700 QT-630-3S841370-TIL-24	2/16/2024 8/1/2024	2/16/2025 8/1/2025	Aggregate/Each Claim \$5,000,000 Any One Jobsite \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is hereby included as Additional Insured with respects to the General Liability, Automobile Liability and Umbrella Liability on a primary and non-contributory basis if required by written contract subject to all provisions and limitations of the policies. Waiver of Subrogation in favor of Certificate Holder applies to the General Liability, Automobile Liability and Employers Liability/Workers Compensation if required by written contract subject to all provisions and limitations of the policies. The above referenced Excess/Umbrella Liability policy is follow-form and provides additional limits of insurance for General Liability, Automobile Liability and Employers Liability/Workers Compensation. The \$100,000 is the limit for hired auto physical damage. Deductibles are \$250/\$500.

See Attached...

CERTIFICATE HOLDER**CANCELLATION**

City of Eloy
1137 W Houser Road
Eloy AZ 85131

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Reseco Insurance Advisors, LLC		NAMED INSURED Sunland Asphalt & Construction, LLC dba Sunland Asphalt 1625 E. Northern Avenue Phoenix AZ 85020	
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

Leased/Rented Equipment – Limit Per Item/Deductible: \$1,500,000 / \$5,000
 Carrier/NAIC #: Travelers Property Casualty Co of America / 31194
 Policy Number: QT-630-3S841370-TIL-24
 Policy Term: 8/1/2024 – 8/1/2025

Cyber Liability – Aggregate Limit \$5,000,000
 Carrier/NAIC #: Palomar Excess and Surplus Insurance Company / 16754
 Policy Number: PLM-CB-S5KOFQYX-003
 Policy Term: 2/24/2024 - 2/24/2025
 Cyber Liability includes Privacy, Security and Data Breach.

Crime/Employee Dishonesty – Limit/Deductible: \$1,000,000 / \$10,000
 Carrier/NAIC #: Hudson Insurance Company / 25054
 Policy Number: SXS31210420
 Policy Term: 1/13/2021 – 1/13/2027

Aviation Liability – Limit: \$1,000,000
 Carrier/NAIC #: American Alternative Ins Corp / 19720
 Policy Number: 9044202
 Policy Term: 2/05/2024 - 2/05/2025

Technology Errors & Omissions: Limit \$5,000,000
 Carrier/NAIC #: Endurance American Insurance Co / 10641
 Policy Number: PNV10015397700
 Policy Term: 2/16/2024 - 2/16/2025

Primary Excess Liability: Limit Per Occurrence/Aggregate: \$5,000,000
 Carrier/NAIC#: Homesite Insurance Company of Florida/11156
 Policy Number: CXP 016711 01
 Policy Term: 04/01/2024-04/01/2025

Second Layer Excess Liability Limit: Limit Per Occurrence/Aggregate: \$10,000,000
 Carrier/NAIC#: Travelers Excess and Surplus Lines Company/29696
 Policy#: EX-2T42594A-24-NF
 Policy Term: 04/01/2024-04/01/2025

Builders Risk/Installation Floater
 Travelers NAIC 29696
 Policy# QT-630-35841370
 Effective 08/01/2024-08/01/2025

Project Name: ELOY CITY STONE AVENUE PAVING PROJECT- SUNSHINE BOULEVARD AND MAIN STREET MILL AND OVERLAY PAVEMENT PRESERVATION
 Additional Insured: City of Eloy, agents, officers, officials, and employees

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

This endorsement, effective 12:01 AM 04/01/2024

forms a part of Policy No. WC 011-56-9704

Issued to SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

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 any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY WRITTEN CONTRACT OR AGREEMENT
YOU ENTER INTO PRIOR TO THE OCCURRENCE OF LOSS.

Covered States:

AZ
CO
NM
NV
TX
GA

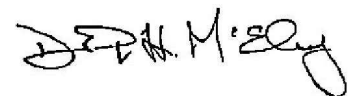
This form is not applicable in Kansas for private construction contracts as defined in K.S.A. 16-1801 through K.S.A. 16-1807 or public construction contracts as defined in K.S.A. 16-1901 through 16-1908, except where permitted by statute or other applicable law, such as for use in wrap-up insurance programs.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas, or Utah.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____



Authorized Representative

Archive Copy

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET LOSS PAYEES

This endorsement modifies insurance provided under the
COMMERCIAL INLAND MARINE COVERAGE PART

The following is added to Section E – ADDITIONAL
COVERAGE CONDITIONS:

Loss Payable Provision

In the event of a Covered Cause of Loss to Covered
Property in which both you and a Loss Payee share
an insurable interest, we will:

a. Adjust the loss or damage with you; and

b. Pay any claim for loss or damage jointly to you
and the Loss Payee as your interests may
appear.

This endorsement applies to all Covered Property for
which a Loss Payee is on file with us or your
insurance agent or insurance broker.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization whom you become obligated to include as an additional insured as a result of any contract or agreement you have entered into.	Per the contract or agreement.
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" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

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.

POLICY NUMBER: GL 992-56-17

COMMERCIAL GENERAL LIABILITY
CG 20 10 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR
CONTRACTORS - SCHEDULED 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)	Location(s) Of Covered Operations
Any person or organization whom you become obligated to include as an additional insured as a result of any contract or agreement you have entered into.	Per the contract or agreement.
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:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

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 additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service,

maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. 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.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 04/01/2024 forms a part of

Policy No. CA 977-59-27 issued to SUNLAND ASPHALT & CONSTRUCTION INC
SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED**

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

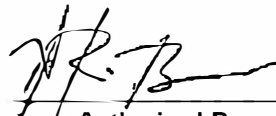
Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.



Authorized Representative

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):
PURSUANT TO APPLICABLE WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO.
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.

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.

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2024 forms a part of

policy No. GL 992-56-17 issued to SUNLAND ASPHALT & CONSTRUCTION INC
SUNLAND ASPHALT & CONSTRUCTION, LLC

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIMITS OF INSURANCE (Per Project or Per Location Aggregate Limit)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

- I. Your policy is amended to include either a Per Project General Aggregate Limit, a Per Location General Aggregate Limit or a Per Project and Per Location General Aggregate Limit. Please select only *one* of the following:

☒ Per Project General Aggregate Limit	\$ 2,000,000
☐ Per Location General Aggregate Limit	\$
☐ Per Project and Per Location General Aggregate Limit	\$

IF NEITHER OF THESE BOXES ARE CHECKED, THIS ENDORSEMENT IS VOID. IF MORE THAN ONE OF THE THESE BOXES ARE CHECKED, THIS ENDORSEMENT IS VOID.

II. **SECTION III - LIMITS OF INSURANCE** , is amended to include the following:

1. The Limits of Insurance and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the products-completed operations hazard"; and
 - c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Subject to 5. above, the Damage to Premises Rented To You Limit is the most we will pay under Coverage A because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.
8. Subject to 2., 4., 5., 6., and/or 7. above, the Per Project Aggregate Limit is the most we will pay under Coverages A, B, and C combined for the sum of:
 - a. Damages under Coverage A;
 - b. Damages under Coverage B; and
 - c. Medical Expenses under Coverage C

arising out of any single Project described above.

9. Subject to 2., 4., 5., 6., and/or 7. above, the Per Location Aggregate Limit is the most we will pay under Coverages A, B, and C combined for the sum of:
 - a. Damages under Coverage A;
 - b. Damages under Coverage B; and
 - c. Medical expenses under Coverage C

arising out of the any single Location described above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

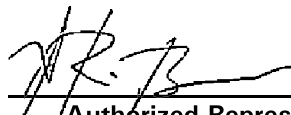
- III. The Limits of Insurance shown in the Declarations are deleted in their entirety and replaced by the Limits of Insurance set forth below.

	Limits of Insurance
General Aggregate Limit	\$ 10,000,000
Each Occurrence Limit	\$ 1,000,000
Products-Completed Operations Aggregate Limit	\$ 2,000,000
Personal & Advertising Injury Limit	\$ 1,000,000
Damage to Premises Rented to You	\$ 500,000
Medical Expense Limit	\$ 25,000
Per Project General Aggregate Limit, Per Location	\$ 2,000,000
General Aggregate Limit or Per	
Project and Per Location General Aggregate Limit	

IV. **SECTION V - DEFINITIONS**, is amended to include the following:

23. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway, or right-of-way railroad.

All other terms and conditions of this policy remain the same.



Authorized Representative or
Countersignature (in States Where
Applicable)

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2024 forms a part of
policy No CA9775927 issued to **Sunland Asphalt & Construction Inc**
Sunland Asphalt & Construction, LLC
by **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

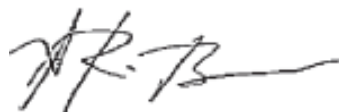
ADDITIONAL INSURED:

**ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY
BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE
EXTENT OF SUCH PERSON OR ORGANIZATIONS LIABILITY ARISING OUT OF
THE USE OF A COVERED AUTO.**

**I. SECTION II - COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is
amended to add:**

- d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy, or
- (2) The coverage and/or limits required by said contract or agreement.



AUTHORIZED REPRESENTATIVE

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2024 forms a part of
policy No. **CA 977-59-27** issued to **Sunland Asphalt & Construction Inc**
Sunland Asphalt & Construction, LLC
by **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSURED

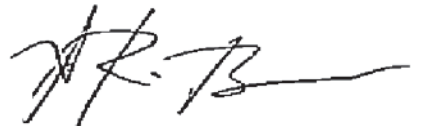
This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.



**Authorized Representative or Countersignature (in States Where
Applicable)**

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2024
forms a part of Policy No. CA 977-59-27
issued to SUNLAND ASPHALT & CONSTRUCTION
by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.



AUTHORIZED REPRESENTATIVE

ENDORSEMENT #

☐ This endorsement, effective 12:01 A.M.04/01/2024 forms a part of

Policy No. GL 992-56-17 issued to SUNLAND ASPHALT & CONSTRUCTION INC
SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED**

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

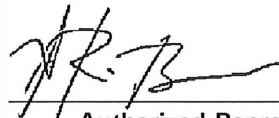
Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.



Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2024 forms a part of Policy No. WC 11-56-9704

Issued to SUNLAND ASPHALT & CONSTRUCTION INC
SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

**LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE NAMED INSURED
(WORKERS' COMPENSATION ONLY)**

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **Named Insured** or, if applicable, any other employers named in Item 1 of the Information Page is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and the **Named Insured** has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **Named Insured** provides such information to the **Insurer**.

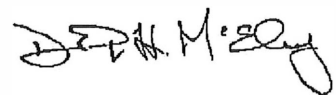
Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following definitions apply to this endorsement:

1. **Named Insured** means the insured first named employer in Item 1 of the Information Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Information Page of this policy.

All other terms, conditions and exclusions shall remain the same.



AUTHORIZED REPRESENTATIVE

CONTRACTORS PROFESSIONAL AND POLLUTION LIABILITY POLICY (OCCURRENCE FORM)

FOR THOSE COVERAGES THAT ARE IDENTIFIED AS APPLYING ON A CLAIMS-MADE BASIS, SUCH COVERAGES ARE LIMITED TO CONDITIONS THAT ARE DISCOVERED AND REPORTED DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD(S) FOR CLAIMS THAT ARE FIRST MADE AND REPORTED TO THE INSURER WITHIN THE POLICY PERIOD OR, IF APPLICABLE, THE EXTENDED REPORTING PERIOD(S). THIS POLICY DOES NOT PROVIDE COVERAGE FOR CLAIMS ARISING OUT OF CONDITIONS THAT TOOK PLACE PRIOR TO THE APPLICABLE RETROACTIVE DATE. READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS, DUTIES AND WHAT IS AND WHAT IS NOT COVERED.

DEFENSE EXPENSES, INCLUDING ATTORNEY FEES AND EXPENSES, ARE INCLUDED WITHIN AND ERODE THE LIMITS OF LIABILITY. OTHER WORDS AND PHRASES THAT APPEAR IN BOLD HAVE SPECIAL MEANING. REFER TO THE DEFINITIONS SECTION.

In consideration of premium paid or payable and in reliance on all statements made and information furnished by the **Insureds** in the underwriting of this **Policy**, and subject to the terms and conditions of this **Policy**, the insurer identified in the Declarations (herein referred to as the "Company") agrees as follows:

I. INSURING AGREEMENTS

ONLY THOSE COVERAGES WITH A SPECIFIC LIMIT OF INSURANCE SHOWN IN THE DECLARATIONS ARE APPLICABLE.

A. COVERAGE A – COVERED OPERATIONS

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for:

1. **Cleanup Costs, Bodily Injury or Property Damage** that the **Insured** becomes legally obligated to pay; and
2. **Defense Expenses;**

that result from **Pollution Condition(s)** or **Biological Agent Condition(s)** caused by **Covered Operations**.

This coverage applies only if the **Environmental Damage, Bodily Injury or Property Damage** occurs during the **Policy Period**.

If the same **Pollution Condition(s)** or **Biological Agent Condition(s)**, or series of related **Pollution Condition(s)** or **Biological Agent Condition(s)**, results in **Environmental Damage, Bodily Injury, or Property Damage** that occurs over the **Policy Periods** of two or more Contractor's Pollution Liability policies issued by the Company, such **Environmental Damage, Bodily Injury or Property Damage** will be deemed to have occurred only during the **Insured's** first such policy under which the **Environmental Damage, Bodily Injury or Property Damage** is covered. This shall apply even if the date that the **Environmental Damage, Bodily Injury or**

Property Damage first occurred is prior to the **Policy Period** or is unknown, provided that, the **Environmental Damage, Bodily Injury or Property Damage** occurs during the **Policy Period** of this **Policy**. Related **Pollution Condition(s)** or **Biological Agent Condition(s)** are those **Pollution Condition(s)** or **Biological Agent Condition(s)** that arise out of, are based on, relate to, or are in consequence of, the same or related or series of related facts, events, circumstances or situations.

B. COVERAGE B – INSURED’S LOCATIONS

THIS COVERAGE APPLIES ON A CLAIMS-MADE BASIS.

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for:

1. **Cleanup Costs;**
2. **Bodily Injury or Property Damage** that the **Insured** becomes legally obligated to pay; and
3. **Defense Expenses;**

that result from **Pollution Condition(s)** at, upon, within, under or migrating from:

- a. A **Scheduled Location** which commenced on or after the applicable **Retroactive Date**, and before the **Policy** terminates, provided that the **Claim** for such **Pollution Condition(s)** is first made and the **Pollution Condition(s)** is first discovered during the **Policy Period**, and reported to the Company during the **Policy Period**, the Automatic Extended Reporting Period or the Optional Extended Reporting Period, if any; or
- b. An **Ancillary Location** which commenced on or after the **Policy** inception date and before the **Policy** terminates, provided that such **Pollution Condition(s)** is first discovered no more than ten (10) days after commencement of such **Pollution Condition(s)** and reported to the Company no later than thirty (30) days after the commencement of such **Pollution Condition(s)**, but in any event during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any.

C. COVERAGE C – NON-OWNED DISPOSAL SITES

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for:

1. **Cleanup Costs, Bodily Injury or Property Damage** that the **Insured** becomes legally obligated to pay to parties other than owners, operators or contractors of **Non-owned Disposal Sites**; and
2. **Defense Expenses;**

resulting from **Pollution Condition(s)** in the processing, treatment or disposal, or the arranging for the processing, treatment or disposal, of waste at, upon, within, under or migrating from **Non-owned Disposal Sites**. This coverage applies only if such waste first originates from **Covered Operations** performed by or on behalf of the **Insured**, provided that:

The **Environmental Damage, Bodily Injury or Property Damage** occur during the **Policy Period**. If the same **Pollution Condition(s)** or series of related **Pollution Condition(s)** results in **Environmental Damage, Bodily Injury or Property Damage** that occurs over the **Policy Periods**

of two or more Contractor's Pollution Liability policies issued by the Company, such **Environmental Damage, Bodily Injury or Property Damage** will be deemed to have occurred only during the **Insured's** first such policy under which the **Environmental Damage, Bodily Injury or Property Damage** is covered. This shall apply even if the date that the **Environmental Damage, Bodily Injury or Property Damage** first occurred is prior to the **Policy Period** or is unknown, provided the **Environmental Damage, Bodily Injury or Property Damage** occurs during the **Policy Period** of this **Policy**. Related **Pollution Condition(s)** are those **Pollution Condition(s)** that arise out of, are based on, relate to, or are in consequence of, the same or related or series of related facts, events, circumstances or situations.

D. COVERAGE D – PUBLIC RELATION EXPENSES

The Company shall reimburse the **Insured**, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, for **Public Relation Expenses** resulting from **Pollution Condition(s)** or **Biological Agent Condition(s)** or a **Wrongful Act(s)** to which coverage applies under COVERAGE A, COVERAGE B or COVERAGE C, or COVERAGE E of this **Policy**.

E. COVERAGE E – PROFESSIONAL LIABILITY

THIS COVERAGE APPLIES ON A CLAIMS-MADE BASIS.

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for

1. **Damages;** and
2. **Defense Expenses;**

that result from a **Wrongful Act(s)** in the performance of or failure to perform **Professional Services**.

This coverage applies only if:

- a. Such **Professional Services** are performed on or after the **Retroactive Date** and before the end of the **Policy Period**; and
- b. The **Claim** is first made against the **Insured** during the **Policy Period**, and reported to the Company during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any

F. COVERAGE F – PROTECTIVE PROFESSIONAL LIABILITY

THIS COVERAGE APPLIES ON A CLAIMS-MADE BASIS.

The Company shall reimburse the **Insured**, up to the Limits of Liability as specified in the Declarations, for **Ultimate Loss** in excess of all applicable limits of liability of the **Design Professionals Insurance** provided that:

1. the **Ultimate Loss** arise out of **Professional Services** performed on or after the **Retroactive Date** and before the end of the **Policy Period**;

2. the **Protective Claim** for such **Ultimate Loss** is first made by the **Insured** during the **Policy Period** and reported to the Company during the **Policy Period**, the Automatic Extended Reporting Period or the Optional Extended Reporting Period, if any; and
3. the **Insured** has done all that is reasonable and legally permitted in seeking recovery for **Ultimate Loss**.

G. COVERAGE G – MITIGATION OF LOSS

The Company shall indemnify the **Insured**, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, for **Mitigation Costs** provided that:

1. the **Covered Operations** or **Professional Services** took place on or after the **Retroactive Date** and before the end of the **Policy Period**;
2. the **Insured** notifies the Company in writing during the **Policy Period** of the circumstances that would reasonably be expected to lead to such **Claim**; and
3. prior written approval by the Company is given after the **Insured** demonstrates that mitigation is reasonable and necessary to prevent or avoid a covered **Claim**.

However, the prior written approval of the Company shall not be required when necessary **Emergency Mitigation Action** is taken within 72 hours after a **Pollution Condition** or **Biological Agent Condition** has been discovered.

II. DEFENSE, SETTLEMENT and COOPERATION

A. DEFENSE AND SETTLEMENT OF CLAIMS

The Company has the right and the duty to defend the **Insured** against any **Claim** to which this **Policy** applies, and may, investigate and settle such **Claims**. The Company shall have the right to designate legal counsel for the investigation, adjustment and defense of **Claims**. The Company's duty to defend any **Claim** shall commence upon notice of a **Claim**, but the Company's duty to pay **Defense Expenses** shall commence only upon the **Insured's** satisfaction of the Self-Insured Retention set forth in the Declarations.

In the event the **Insured** has the legal right to designate independent counsel, the Company will only be obligated to reimburse **Defense Expenses** for such independent counsel at those rates that the Company pays to counsel it retains in the ordinary course of business in the defense of similar claims in the geographical area where the **Claim** is being defended.

The Company's duty to defend the **Insured** shall terminate when the Company establishes: (i) the absence of coverage under the terms and conditions of this **Policy**; or (ii) the Limits of Liability have been exhausted. In such circumstance, the Company shall take reasonably appropriate steps to transfer control of any existing defense to the **Insured**.

The **Insureds** shall not settle or offer to settle any **Claim**, incur **Defense Expenses**, admit any liability, stipulate to any judgment, or otherwise assume any obligation with respect to any **Claim** without the prior written consent of the Company, which shall not be unreasonably withheld. The Company shall not be liable for **Cleanup Costs**, **Bodily Injury**, **Property Damage**, **Environmental Damage**, **Public Relations Expenses**, **Ultimate Loss**, or **Damages** as a result of any offer to settle, settlement, assumed obligation, admission of liability, stipulated judgment, or

Defense Expenses to which it has not consented. However, if the **Insureds** are able to fully and finally settle, with prejudice, all **Claims** subject to a single Self-Insured Retention for an aggregate amount, including **Defense Expenses**, that does not exceed such Self-Insured Retention, then the Company's consent is not required for such settlement.

The Company shall have the right to make any investigation it deems necessary and, with the written consent of the **Insured**, make any settlement of a **Claim** covered by this **Policy**. If the Company recommends settlement of a **Claim**, the claimant is willing to agree to such settlement, and the **Insured** refuses to give written consent to settlement as recommended by the Company, then the **Insured** thereafter shall negotiate or defend such **Claim** independently of the Company and on the **Insured's** own behalf. In such event, the Company's liability for any such **Claim** shall be limited to the amount of the proposed settlement, plus **Defense Expenses** incurred up to the time that the **Insured** refused to agree to the proposed settlement, provided that the Company's liability under this **Policy** for such **Claim** shall not exceed the remaining portion of the applicable Limit of Liability.

B. COOPERATION

The **Insureds** agree to provide the Company with all information, assistance, and cooperation that the Company reasonably requests with respect to any **Claim**, including, but not limited to, submitting to examination by the Company's representative, attending hearings and depositions, and assisting the Company in the investigation and defense of a **Claim**. The **Insureds** agree that they will not knowingly take any action that will prejudice the Company's position or its potential or actual rights of recovery with respect to any amounts paid under this **Policy**. The **Insureds** shall forward to the Company every demand, pleading, notice, or other process received by or on behalf of the **Insured** in connection with any **Claim**.

III. EXCLUSIONS

This **Policy** does not cover any **Claims** arising out of, based upon, involving directly or indirectly, resulting from or with respect to:

A. ACTS OF WAR

The consequence of war, invasion, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.

B. ASBESTOS

COVERAGE B only, the existence, use, sale or clean up of, exposure to or testing for asbestos products, fibers, asbestos dust or asbestos containing products or materials unless specifically endorsed onto this **Policy**. This exclusion does not apply to **Claims** for **Bodily Injury** or **Property Damage**; or **Environmental Damage** for the remediation of naturally occurring asbestos in soil, sediment, groundwater and surface water.

This exclusion shall not apply to **Cleanup Costs** solely incurred for the remediation of asbestos containing material which has been inadvertently impacted (not including any displacement associated with activities including renovation, demolition or abatement) by an accident at a **Scheduled Location** or **Ancillary Location** which commences, in its entirety, during the **Policy Period** and demonstrable by the **Insured**. There shall be no coverage for any costs incurred to

remove, abate, monitor, repair or otherwise address asbestos products, fibers, asbestos dust or asbestos containing products or materials that have not been impacted by such accident.

C. COMPLIANCE ACTIONS AND IMPROVEMENTS

COVERAGE B only, funds spent for additions, equipment, upgrades or physical improvements to the **Scheduled Location** or **Ancillary Location** or other property of the **Insured** irrespective of whether actions or improvements were undertaken voluntarily, to assure future compliance with applicable laws, rules or regulations or for any other reason.

D. CONTRACTUAL LIABILITY

The liability of others assumed by an **Insured** under any contract or agreement unless:

1. The **Insured** would have such liability in the absence of a contract or agreement; or
2. The liability is assumed in a contract or agreement that is an **Insured Contract**, if such contract or agreement existed before the **Pollution Condition**, **Biological Agent Condition**, and/or **Wrongful Act** giving rise to such liability occurs.

E. FAULTY WORKMANSHIP/OWN WORK

Faulty construction workmanship (including approval thereof or any materials, parts, or equipment furnished in connection therewith) in any construction, erection, fabrication, installation, assembly, manufacture, or remediation performed by, on behalf of, or at the direction of any **Insured**, or any entity acting in the capacity of an agent, contractor, or subcontractor of any **Insured**.

This Exclusion shall not apply to:

1. a **Wrongful Act** committed by any **Insured**, subcontractor, or any other entity for whose acts an **Insured** is legally responsible; or
2. a **Pollution Condition** or **Biological Agent Condition** resulting from **Covered Operations**.

F. INSURED'S INTERNAL EXPENSES

Any costs, charges or expenses incurred by the **Insured** for goods supplied or services performed by any staff or salaried employees of the **Insured** or the **Insured's** parent, subsidiary or affiliate (whether or not an **Insured** under this **Policy**).

G. INSURED'S OWNED LOCATIONS

Any real property that is or was owned, leased, managed, or rented by (a) the **Insured**, (b) any person or organization with an ownership stake in or management control of the **Insured**, or (c) by any organization in which the **Insured** has an ownership stake or management control.

This exclusion shall not apply to:

1. COVERAGE B;
2. COVERAGE C or COVERAGE D with respect to any **Scheduled Location(s)** or **Ancillary Location(s)**; or
3. Property temporarily leased, rented or occupied for use in the performance of **Covered Operations**, including staging areas or storage of equipment or materials at or near a job site.

H. INSURED PRODUCT LIABILITY

Any goods or products designed, manufactured, sold, supplied, or distributed by an **Insured**, or others trading under an **Insured**'s name, including any, materials, parts, components or equipment furnished or installed by or on behalf of the Insured.

This exclusion does not apply to:

1. computer software sold or supplied by an **Insured** to its client solely in connection with the **Insured**'s rendering or failure to render **Professional Services**;
2. any goods or products installed in the course of **Covered Operations** that result in **Cleanup Costs, Bodily Injury or Property Damage**; or
3. goods or products installed in the course of **Covered Operations** that have been exclusively designed but not manufactured by or on behalf of the **Insured** for use in a specific project.

I. INSURED VERSUS INSURED

Any suit, action, demand, complaint or claim by any **Insured** against any other **Insured**.

This exclusion shall not apply to **Claims** brought by or against clients for whom the **Professional Services** or **Covered Operations** are or were performed

J. INTENTIONAL OR ILLEGAL ACTS

Any **Insured**'s:

1. Intentional, willful, deliberate non-compliance with any statute, regulation, ordinance, administrative complaint or notice of violation, notice letter, executive order or instruction of any governmental agency or body; or
2. Dishonest, illegal, fraudulent or criminal act.

This exclusion shall not apply to non-compliance based upon the **Insured**'s good faith reliance upon written advice of qualified counsel received in advance of such non-compliance or an **Insured**'s reasonable efforts to mitigate a **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)** that necessitates immediate action, provided that such **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)** is reported to the Company within fourteen (14) days of its commencement.

K. KNOWN CONDITIONS

Any:

1. **Claim** or circumstance reported under any prior policy or to another carrier;
2. **Pollution Condition(s) or Biological Agent Condition(s)**;
3. **Bodily Injury, Property Damage or Environmental Damage**; or
4. **Wrongful Act**;

that was known or discovered by a **Responsible Person** prior to the inception date of this **Policy** and not disclosed in the **Application** for this **Policy** or a prior policy, of which this **Policy** is a renewal, that was issued by the Company. This exclusion applies even if such **Pollution**

Condition(s), Biological Agent Conditions(s), Bodily Injury, Property Damage, Environmental Damage, or Wrongful Act or circumstance results in a new **Claim** during the **Policy Period** of this **Policy**.

L. LEAD-BASED PAINT

COVERAGE B only, the existence, required removal or abatement of lead paint. This exclusion does not apply to **Claims** for **Bodily Injury** or **Property Damage**.

This exclusion shall not apply to **Cleanup Costs** solely incurred for the remediation of lead-based paint which has been inadvertently impacted (not including any displacement associated with activities including renovation, demolition or abatement) by an accident at a **Scheduled Location** or **Ancillary Location** which commences, in its entirety, during the **Policy Period** and is demonstrable by the **Insured**. There shall be no coverage for any costs incurred to remove, abate, monitor, repair or otherwise address lead-based paint that has not been impacted by such accident.

M. PROPERTY DAMAGE TO COVERED OPERATIONS AND PRODUCTS

Any **Property Damage** to:

1. That particular part of real property on which **Covered Operations** are being performed, if the **Property Damage** is caused by such **Covered Operations**;
2. That particular part of property or real property that has been constructed, furnished or serviced as part of **Covered Operations**; or
3. The **Insured Product**, if the **Property Damage** arises from the **Insured Product** or any part of it.

Subparagraphs 1. and 2. do not apply to **Completed Operations**.

N. PROTECTIVE CLAIM

The amount of any default judgment, arbitration award or adjudicator's decision in circumstances where the **Design Professional** has failed to plead and/or provide a defense, response or answer, or take any other procedural step, except that this exclusion shall not apply to the amount of **Ultimate Loss** which the **Insured** would have been entitled to recover from the **Design Professional** had such defense, response or answer been pleaded and/or provided, or procedural step been taken.

In such instance where the **Design Professional** has failed to plead and/or provide a defense, response or answer, or take any other procedural step, the burden of proving the extent of **Ultimate Loss** which the **Insured** would have been entitled to recover from the **Design Professional** will be upon the **Insured**.

O. PROTECTIVE CLAIM LEGAL FEES

Attorney's fees and any other costs and expenses incurred by any **Insured** in connection with the making and prosecution of a **Protective Claim**.

P. PROTECTIVE LOSS CONSENT

Any settlement that has been reached with the **Design Professional** involving the limits of liability of this **Policy** without the express written consent of the Company, such consent not to be unreasonably withheld or delayed

Q. PUNITIVE OR EXEMPLARY DAMAGES

Punitive or exemplary damages, multiplied damages, assessments, fines or penalties (including those arising from criminal actions), except where the law permits insurance to pay such damages and fines.

R. SEPARATELY INSURED PROJECTS

Any project that is insured under a project specific professional and/or pollution insurance policy, provided, however, that this exclusion shall not apply where the **Insured's** liability is found to be in excess of the limit of liability available under such project specific professional and/or pollution insurance policy as applicable.

S. UNDERGROUND STORAGE TANKS

COVERAGE B only, the existence of any underground storage tank(s), the contents within any underground storage tank(s) and associated underground piping at a **Scheduled Location** or **Ancillary Location**.

This exclusion does not apply to **Scheduled Locations** with respect to:

1. Unknown underground storage tank(s), the contents within any underground storage tank(s) and associated underground piping that the **Insured** had discovered after the inception date of this **Policy**;
2. Underground storage tank(s) that are endorsed onto this **Policy**;
3. Any underground storage tank(s) that have been closed or abandoned in place in accordance with all applicable **Environmental Laws**; or
4. Storage tank(s) located within an accessible subsurface underground vault that can be visually inspected in its entirety.

T. WASTE FACILITIES

Any waste or other kind of products or materials transported, shipped or delivered via any automobile, aircraft, watercraft, or rolling stock to any transfer, storage or disposal facility beyond the boundaries of a location at which **Covered Operations** are being performed.

This exclusion shall not apply to:

1. COVERAGE C; or
2. **Transportation** to which this **Policy** applies.

U. WORKERS COMPENSATION AND EMPLOYERS LIABILITY

1. Any obligation of any **Insured** under workers compensation, disability benefits, unemployment compensation, employee benefits, pension sharing, ERISA law or any similar law; or

2. Any actual or alleged refusal to employ, termination of employment, harassment, humiliation or discrimination on any basis, or other employment related practices or policies. This exclusion applies whether the **Insured** may be held liable as an employer or in any other capacity.

IV. LIMITS OF INSURANCE

The limits of this insurance are presented in the following sections regarding “Maximum Aggregate Limit” and separate limits of liability.

A. MAXIMUM AGGREGATE LIMIT

The Company’s total liability hereunder for all **Bodily Injury, Property Damage, Cleanup Costs, Damages, Environmental Damage, Ultimate Loss, Mitigation Costs, Public Relations Expenses** and **Defense Expenses** or any other amounts under this **Policy**, including any coverages added by endorsement (unless otherwise indicated), shall not exceed the “Maximum Aggregate Limit” specified in the Declarations irrespective of any of the following:

1. The number of **Claims** made;
2. The number of persons or organizations making **Claims**;
3. The number of persons or organizations covered hereunder;
4. The number of actual or alleged **Pollution Condition(s), Biological Agent Condition(s), or Wrongful Acts**; or
5. The number of times **Cleanup Costs, Public Relations Expenses, Bodily Injury, Property Damage, Environmental Damage, Ultimate Loss, Damages, Mitigation Costs** are incurred.

B. LIMITS OF LIABILITY

Subject to the Maximum Aggregate Limit above:

1. The “Coverage A – Covered Operations”, amounts shown in the Declarations is the maximum amount the Company will pay under COVERAGE A of this **Policy** for any **Claim(s)** resulting from the same or related **Pollution Condition(s)** or **Biological Agent Condition(s)**, whichever applies.
2. The “Coverage B – Insured’s Locations” and “Coverage C – Non-owned Disposal Sites” amounts shown in the Declarations are the maximum amounts the Company will pay under COVERAGES B and C, respectively, of this **Policy** for any **Claim(s)** resulting from the same or related **Pollution Condition(s)**.
3. The “Coverage D – Public Relation Expenses” amount shown in the Declarations is the maximum amount the Company will pay for **Public Relations Expenses** under COVERAGE D of this **Policy** for any **Claim(s)** resulting from the same or related **Wrongful Acts, Pollution Condition(s)** or **Biological Agent Condition(s)**, whichever applies.
4. The “Coverage E – Professional Liability” and “Coverage F – Protective Professional Liability” amounts shown in the Declarations are the maximum amounts the Company will pay under COVERAGES E and F of this **Policy** for any **Claim(s)** resulting from the same or related **Wrongful Act(s)**, whichever applies.

5. The “Coverage G – Mitigation of Loss” amount shown in the Declarations is the maximum amount the Company will pay under COVERAGE G of this **Policy** for any **Mitigation Costs** resulting from the same or related **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)**.
6. If more than one coverage applies to the same **Claim**, the Company’s maximum limit of liability for that **Claim** under all those coverages shall not exceed the single highest coverage limit of liability applicable to such **Claim**.
7. The “Maximum Aggregate Limit” amount shown in the Declarations is the maximum amount the Company will pay under this **Policy**.

The Limits of Insurance shown in the Declarations shall apply in excess of the Self-Insured Retention amount shown in the Declarations.

The single Limit of Liability applies if the same **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)** or series of related **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)**, whichever applies, takes place over two or more **Policy Periods**. Related **Wrongful Acts(s), Pollution Condition(s) or Biological Agent Condition(s)** are those **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)**, respectively, that arise out of, are based on, relate to, or are in consequence of, the same or related or series of related facts, events, circumstances or situations.

- C. If a Separate Defense Expenses Limit amount is shown in the Declarations, then **Defense Expenses** shall not be included within or reduce the Limits of Liability described in A. and B. above, until **Defense Expenses** in the aggregate paid by the Company for all **Claims** under the **Policy** equal the amount designated in the Declarations. Once payment of **Defense Expenses** under the **Policy** equals the amount shown in the Declarations, **Defense Expenses** shall be included within and reduce the Limits of Liability described in A. and B. above.

D. SUPPLEMENTARY PAYMENTS

1. The Company will reimburse the **Insured** up to \$500 for loss of earnings to each **Insured** for each day, or part of a day, such **Insured** is in attendance, at the request of the Company, defense counsel, or as required by law, at a trial, hearing, or arbitration proceeding involving a covered **Claim**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$5,000 regardless of the number of **Insureds**, the number of days or partial days the **Insured** is in attendance, the number of trials, hearings, or arbitration proceedings the **Insured** is required to attend, or the number of **Claims** resulting in such payments.
2. The Company will reimburse the **Insured** up to \$10,000 for reasonable attorneys’ fees, costs, and expenses incurred in connection with the investigation or defense of each **Disciplinary Proceeding**, where notice of such **Disciplinary Proceeding** is both first received by the **Insured** and reported in writing to the Company during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any, and such **Disciplinary Proceeding** arises from an actual or alleged **Wrongful Act, Pollution Condition or Biological Agent Condition**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$100,000 regardless of the number of **Insureds** or the number

of **Disciplinary Proceedings**. The Company shall not be obligated to defend any **Disciplinary Proceeding**, or pay any fine, penalty, or award resulting from any **Disciplinary Proceeding**.

3. The Company will reimburse the **Insured** for reasonable attorneys' fees, costs, and expenses incurred in connection with responding to any governmental investigation, action, or proceeding commenced against any **Insured** and reported in writing to the Company during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any, pursuant to the Americans with Disabilities Act of 1990 (ADA), the federal Fair Housing Act (FHA), or the Occupational Safety and Health Act (OSHA), and arising from a **Wrongful Act**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$10,000 each **Claim** / \$100,000 in the Aggregate, regardless of the number of **Insureds** or the number of ADA, FHA, or OSHA related governmental investigations, actions, or proceedings.
4. Upon written request by the **Insured** during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any, the Company will retain and pay up to \$10,000 each **Claim** for reasonable attorneys' fees and costs to advise and/or represent the **Insured** regarding the production of documents and/or during the preparation and giving of testimony, in response to a subpoena served on the **Insured**, arising from a **Wrongful Act, Pollution Condition** or **Biological Agent Condition**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$100,000 in the Aggregate, regardless of the number of **Insureds** or the number of subpoenas.
5. The Company will reimburse the **Insured** for the reasonable and necessary additional expense payable to a third party software consulting company that are not otherwise recoverable from any warranty or guarantee, arising from loss of or damage to information due to a malfunction of software used in connection with a Building Information Modeling (BIM) system purchased from a third-party vendor that was not modified by the **Insured** or on the **Insured's** behalf, including erroneous calculations or modeling, provided that the malfunction is first discovered during the **Policy Period** and after the system has been put to its intended use in the course of construction in support of **Professional Services** and is reported to the Company, in writing, by the **Insured**, during the **Policy Period**, within ninety (90) days of the end of the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$25,000 regardless of the number of consulting companies, systems purchased or malfunctions.
6. The Company will reimburse the **Insured** for any reasonable and necessary expenses incurred by the **Insured** in the use of **Green Building Materials**, even when the use of such materials is not necessary, as part of **Cleanup Costs** when otherwise covered under this **Policy**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$250,000 regardless of the number of **Pollution Conditions** or **Biological Agent Conditions**.

Supplementary Payments are not subject to a Self-Insured Retention and shall not reduce the Limits of Liability. The Company's consent is required prior to incurring any Supplementary Payments described in Paragraphs 1.-6. above, and the Company shall not be liable for any Supplementary Payment to which it has not consented.

E. MULTIPLE INSURED, CLAIMS, AND CLAIMANTS

The inclusion herein of more than one **Insured** shall not operate to increase the Company's Limits of Liability, including any Sublimits. **Claims** based upon, arising out of, or attributable to the actual or alleged same **Wrongful Act, Pollution Conditions or Biological Agent Conditions, or Wrongful Acts, Pollution Conditions or Biological Agent Conditions** that are **Interrelated** shall be treated as a single **Claim**, regardless of whether made against one or more than one **Insured**. All such **Claims**, whenever made, shall be considered first made when the earliest related **Claim** was first made, whether before or during the **Policy Period**, and all such **Claims** shall be subject to the Limits of Liability, any applicable Sublimit, and the Self-Insured Retention as set forth in the Declarations.

V. SELF-INSURED RETENTION

The Company's obligation for **Bodily Injury, Property Damage, Cleanup Costs, Damages, Ultimate Loss, Mitigation Costs, Public Relations Expenses, Environmental Damage and Defense Expenses** shall only be in excess of the applicable Self-Insured Retention as specified in the Declarations for the same or related **Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s)**. The Self-Insured Retention shall be applied as shown in the Declarations.

Payment of the Self-Insured Retention is a condition precedent to coverage and must be paid by the **First Named Insured** and is not insured by the Company. Further, the **First Named Insured** must remain wholly liable for the Self-Insured Retention and cannot insure any amounts within the Self-Insured Retention. Other insurance will not be applied to reduce the Self-Insured Retention under this **Policy**. The **First Named Insured** shall reimburse the Company for advancing any element of **Bodily Injury, Property Damage, Cleanup Costs, Damages, Ultimate Loss, Mitigation Cost, Public Relations Expenses, Environmental Damage or Defense Expenses** falling within the Self-Insured Retention within thirty (30) days of the Company's advancement of any amounts within the Self-Insured Retention.

VI. EXTENDED REPORTING PERIOD

THE PROVISIONS IN THIS SECTION OF THIS CONTRACT APPLY ONLY TO CLAIMS-MADE COVERAGES

The following section describes the automatic and optional extended reporting period provisions of this **Policy**. The Extended Reporting Period provisions provided by this section shall apply only to coverages that are indicated as applying on a Claims-made basis, and shall under no circumstance extend the **Policy Period**, change the scope of coverage, broaden or extend the reporting requirements applicable to **Ancillary Location(s)** or increase any Aggregate Limits of Insurance shown in the Declarations.

A. AUTOMATIC EXTENDED REPORTING PERIOD

The **Insured** is entitled to a sixty (60) day Automatic Extended Reporting Period for no additional premium upon cancellation or non-renewal of this **Policy** in accordance with the terms and conditions of this section. The Automatic Extended Reporting Period shall apply to **Claims** first made and reported to the Company within the Automatic Extended Reporting Period, but:

1. For **Professional Services** only with respect to **Professional Services** performed prior to the end of the **Policy Period** and on or after the **Retroactive Date**; and

2. For **Scheduled Location(s)** or **Ancillary Location(s)**, only with respect to **Pollution Condition(s)** or **Biological Agent Condition(s)** that (a) are discovered during the **Policy Period** and reported during the Automatic Extended Reporting Period, and (b) commenced on or after the applicable **Retroactive Date**, if any, and before the **Policy** terminates.

The **Insured** shall not have the right to the Automatic Extended Reporting Period if:

1. The **Policy** was cancelled due to non-payment of premium, fraud or material misrepresentation; or
2. The **Insured** purchases other insurance to replace this **Policy**.

B. OPTIONAL EXTENDED REPORTING PERIOD

The **First Named Insured** may purchase an Optional Extended Reporting Period upon cancellation or non-renewal of the **Policy** subject to the following terms and conditions:

1. The **First Named Insured** makes a written request for an Optional Extended Reporting Period that the Company receives within thirty (30) days of the **Termination Date**; and
2. The **First Named Insured** pays the Company an additional premium (to be determined by the Company) within thirty (30) days of the **Termination Date**. Such additional premium charge may not exceed 200% of the **Policy** premium stated in the Declarations.

The maximum Optional Extended Reporting Period may at the election of the **First Named Insured** be for a period of up to thirty-six (36) months from the **Termination Date**. The Optional Extended Reporting Period shall apply to **Claims** first made against the **Insured** and reported to the Company within the Optional Extended Reporting Period, but:

- a. For **Professional Services** only with respect to **Professional Services** performed prior to the end of the **Policy Period** and on or after the **Retroactive Date**; and
- b. For **Scheduled Location(s)** or **Ancillary Location(s)**, only with respect to **Pollution Condition(s)** or **Biological Agent Condition(s)** that (a) are **Discovered** and reported during the Optional Extended Reporting Period, and (b) commenced on or after the applicable **Retroactive Date**, if any, and before the **Policy** terminates.

The **First Named Insured** shall not have the option to purchase the Optional Extended Reporting Period if:

- a. The **Policy** was cancelled due to non-payment of premium, fraud or material misrepresentation; or
- b. The **First Named Insured** purchases other insurance to replace this **Policy**.

In the event that the Optional Extended Reporting Period is purchased by the **First Named Insured**, the Optional Extended Reporting Period shall run concurrent to the Automatic Extended Reporting Period and shall not be in addition to the Automatic Extended Reporting Period. Once purchased, the Optional Extended Reporting Period is non-cancellable and will only be effective if the premium is paid when due.

VII. CONDITIONS

A. ASSIGNMENT

This **Policy** may be assigned only with the prior written consent of the Company. Such written consent shall not be unreasonably withheld or delayed by the Company.

B. BANKRUPTCY

Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate will not relieve the Company of its obligations under this **Policy**.

C. CANCELLATION

1. The **First Named Insured** may cancel this **Policy** by mailing to the Company written notice stating when thereafter such cancellation shall become effective. The **Termination Date** shall be the date stated in such written notice.

The Company may cancel this **Policy** for:

- a. Fraud or material misrepresentation by an **Insured**;
- b. Any **Insured's** failure to comply with the terms and conditions under this **Policy**;
- c. Material change in the nature or extent of the risk involved hereunder; or
- d. Failure to pay premium.

In the event of cancellation for any reason other than failure to pay premium, the Company shall provide written notice stating when not less than thirty (30) days thereafter such cancellation shall become effective. In the event the **First Named Insured** fails to pay premium under this **Policy**, the Company shall provide not less than fifteen (15) days written notice of cancellation of the **Policy**. The **Termination Date** shall be the date stated in any such written notice.

However, with respect to b. or d. above, the **Insured** shall have the ability, within such thirty (30) day time period with respect to b. or such fifteen (15) day time period with respect to d., to cure such failure. The Company shall have the right, in its sole discretion, to determine whether or not such a failure has been cured.

The mailing of notice to the last known address of the **First Named Insured** in the manner provided herein or hand delivery to such address shall be sufficient proof of notice.

2. In the event of cancellation by the **First Named Insured**, the earned premium shall be computed in accordance with the customary short rate table after applying the minimum earned premium percentage or amount, as applicable, set forth in the Declarations, provided that, the minimum earned premium amount shall be 100% in the event a **Claim** has been made under this **Policy**. In the event of cancellation by the Company, the earned premium shall be computed pro rata and the Company will tender any return premium subject to retaining a minimum earned premium equal to 25% of the amount specified in the Declarations, provided that, the minimum earned premium amount shall be 100% in the event a **Claim** has been made under this **Policy**. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable thereafter, but neither tender of the unearned premium nor return of this **Policy** shall be a condition to cancellation hereunder.

D. CHANGES

No provision of this **Policy** may be amended, waived or otherwise changed except by endorsement hereto and the written agreement of the **First Named Insured** and the Company.

E. CONCEALMENT OR FRAUD

If the **Insured** wilfully concealed or misrepresented any fact or circumstance material to the granting of coverage under this **Policy**, this entire **Policy** shall be voidable by the Company.

F. ECONOMIC OR TRADE SANCTIONS

If coverage for a **Claim** or suit under this **Policy** is in violation of any United States of America economic or trade sanctions, including but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control ("OFAC"), then coverage for that **Claim** or suit shall be null and void.

G. ENFORCEABILITY

If any part of this **Policy** is deemed invalid or unenforceable, it shall not affect the validity or enforceability of any other part of this **Policy**, which shall be enforced to the full extent permitted by law.

H. FIRST NAMED INSURED AS AGENT

The **First Named Insured** is responsible for payment of all premiums, retentions and deductibles, and will act as the sole agent on behalf of all **Insureds** with respect to all matters involving this **Policy** unless any such responsibilities are otherwise designated by endorsement.

I. HEADINGS

The descriptions in the headings of this **Policy** are solely for convenience and form no part of the **Policy** terms and conditions.

J. INSPECTION AND AUDIT

The Company has the right, upon reasonable advance notice, to inspect the **Insured's** property or operations at any time. The Company may examine an audit the **Insured's** books and records as they relate to this **Policy** at any time during the **Policy Period** and up to three (3) years afterward. Neither the Company's right to inspect the **Insured's** property or operations, any actual inspection performed pursuant to this right, nor any report resulting from any inspection shall constitute an undertaking, on behalf of the **Insured** or any other party, to determine or warrant that the property or operations are safe, healthful, conform to acceptable engineering practice or are in compliance with any law, rule or regulation. The **Insured** will provide appropriate assistance and cooperation to the Company during any inspection.

K. NO ACTION AGAINST COMPANY

No right of action brought by any person or organization, other than an **Insured**, shall lie against the Company unless, as a condition precedent thereto:

1. Each **Insured** has fully complied with all the provisions of the **Policy**; and
2. The amount of the **Insured's** obligation to pay has been finally determined either by:
 - a. Written agreement of the **Insured**, the Company and the party asserting the **Claim**; or

- b. By final judgment against the **Insured** after actual trial of the issues and the period of time to appeal has elapsed without an appeal having been taken or, if an appeal has been taken, until after such appeal has been adjudicated.

No person or organization shall have any right under this **Policy** to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability nor shall the Company be impleaded by the **Insured** or its legal representative.

L. NOTICE OF CONDITIONS AND CLAIMS

The **First Named Insured** shall as soon as practicable provide written notice of any **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** discovered, or **Claim** received. Such written notice:

1. Shall be given to the Company; and
2. Shall contain complete details regarding the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, or **Claim**, including, but not limited to:
 - a. The exact date the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)** was Discovered or the **Claim** was made, its nature and location, and circumstances giving rise to such **Claim** or discovery;
 - b. All information relating to the cause of the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, including, the **Bodily Injury**, **Property Damage**, **Cleanup Costs**, or **Damages** that have resulted or may result from such **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, all engineering information available on the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, and any other information that the Company deems reasonably necessary;
 - c. All demands, summonses, notices or other process or papers filed with a court of law, administrative agency or an investigative body;
 - d. The names and addresses of all parties asserting a **Claim** and all persons with knowledge of the **Claim** and **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**; and
 - e. All other information in the possession of the **Insured** regarding the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, the discovery and the **Claim**.

The duties of the **First Named Insured** hereunder may not be delegated. Nothing contained herein shall relieve the **First Named Insured** from any obligation, including any notification requirements it may have pursuant to applicable laws, rules or regulations.

Written notice shall be given whether or not the **First Named Insured** believes that a **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)** or **Claim** will result in a demand in excess of the Self-Insured Retention.

When a **Pollution Condition(s)**, **Biological Agent Condition(s)** or other circumstance requires an **Insured** to undertake **Emergency Mitigation Actions**, the **First Named Insured** must immediately provide written notice to the Company upon undertaking such

Emergency Mitigation Actions, but in no event later than seventy-two (72) hours after the **Pollution Condition(s)** or **Biological Agent Condition(s)** has been discovered.

M. NOTICE OF CIRCUMSTANCES

If during the **Policy Period** any **Insured** first becomes aware of any fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** which may reasonably be expected to give rise to a **Claim** that would be covered under this **Policy**, and provided that the **Insured** gives written notice to the Company of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** during the **Policy Period**, then any **Claim** that may subsequently be made against any **Insured** arising out of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** shall be deemed for purposes of this **Policy** to have been made during the **Policy Period**.

As a condition precedent to exercising its rights hereunder, the **Insured** shall include within any such notice a full description of the fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)**, that is the subject of the notice, the nature or extent of the injury or potential damages, the names of the potential claimants, the manner in which the **Insured** first became aware of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)**, and give the Company any such additional information and cooperation as it may reasonably request.

N. **OTHER INSURANCE**

This **Policy** shall be in excess of the amount of the applicable Self-Insured Retention of this **Policy** and excess of any other insurance or indemnification available to the **Insured**, whether such insurance or indemnification is collectible or uncollectible, and whether such insurance is stated to be primary, pro rata, contributory, excess, contingent, or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this **Policy**. However, under Coverage A, when the **Insured** is required by contract, agreement or permit to include any person or entity as an additional insured, such coverage shall be provided on a primary and non-contributory basis.

O. REPRESENTATIONS AND COVENANTS

The **First Named Insured** acknowledges and agrees that:

1. The information, warranties and representations contained in the **Application** submitted by the **Insured** as well as in all supplemental documents provided herewith are true, correct and complete;
2. The Company has issued this **Policy** in specific reliance upon the truth and accuracy of the warranties and representations contained in the **Application**; and
3. All activities of the **Insured** have been and will be conducted in full compliance with **Environmental Laws**.

The **Application**, the Declarations and endorsements, if any, are incorporated into, and are part of, this **Policy** and embody all agreements existing between the **First Named Insured** and the Company and supersede all prior agreements, whether written or oral, expressed or implied.

P. SEPARATION OF INSURED

Except with respect to the Limits of Liability, the Insured versus Insured exclusion and the Known Conditions exclusion under the Exclusions section, and any rights or duties specifically assigned to the **Insured**, this **Policy** applies:

1. As if each **Insured** were the only **Insured**; and
2. Separately to each **Insured** against whom a **Claim** is made.

In the event of any misrepresentation, concealment, breach of condition or violation of any obligation under this **Policy** by any one **Insured**, such misrepresentation, concealment, breach of condition or violation of any obligation will not prejudice any other **Insured** that did not participate or assist in, or have knowledge of, such misrepresentation, concealment, breach of condition or violation of any obligation unless the **Insured** that misrepresented, concealed or breached a term or condition of or violated an obligation under this **Policy** is a parent, subsidiary or affiliate of the **Insured**.

Q. SUBROGATION

In the event that the Company pays any amount under this **Policy**, the Company shall be subrogated to all of each **Insured's** rights of recovery against any person or organization. All **Insureds** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. No **Insured** shall do anything to waive or prejudice such rights. Any recovery obtained through subrogation, after expenses incurred in such subrogation are deducted by the Company, shall be applied first to the **Insured** to the extent of any payments in excess of the Limits of Liability under this **Policy**, if any, then to the Company to the extent of its payment under the **Policy**, and then to the **Insured** to the extent of any retention or deductible. However, if the **Insured** has, prior to the time the **Wrongful Act(s), Pollution Condition(s), Biological Agent Condition(s)** is discovered or the **Damages, Bodily Injury, Property Damage or Cleanup Costs** to which this **Policy** applies takes place, waived subrogation rights against a person or organization in a written contract or agreement, the Company hereby waives any rights of recovery against such person or organization, provided that such person or organization is not a subcontractor of the **Insured**.

R. TERRITORY

This **Policy** only applies to a **Claim** first brought within the United States of America, its territories or possessions, or Canada.

S. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Any rights and duties under this **Policy** may not be transferred without the Company's prior written consent except in the case of death of an individual **Insured**. If an individual **Insured** dies, the rights and duties will be transferred to the individual **Insured's** legal representative but only while acting within the scope of duties as the individual **Insured's** legal representative. Until the individual **Insured's** legal representative is appointed, anyone having proper temporary custody of the individual **Insured's** property will have the individual **Insured's** rights and duties but only with respect to that property.

VIII. DEFINITIONS

Words and phrases in bold in this **Policy** have the following special meaning:

1. **Ancillary Location** means:

- a. Any location(s) designated on a Scheduled Ancillary Location(s) Endorsement; or
- b. Any real property owned, occupied, rented or leased by the **First Named Insured** designated in the Declarations and utilized exclusively as office, warehouse, or vehicle and equipment parking or storage, or a combination thereof, provided that, such location(s) is utilized by the **First Named Insured** for activities or materials that directly support **Covered Operations**. **Ancillary Location** shall not include any property that is leased or rented to third parties for profit.

2. **Application** means all **Applications**, including attachments, and all other materials and information provided by the **Insured** to the Company for the purposes of underwriting or issuing this **Policy** or any policy of which this **Policy** is a direct or indirect renewal or replacement.

3. **Biological Agents** means any legionella pneumophila, fungi including mold or mildew and any mycotoxins, spores, or byproducts produced or released by fungi.

4. **Biological Agent Condition(s)** means the presence of **Biological Agents**, which the **Insured** had not discovered prior to the inception of this **Policy**.

Biological Agent Condition(s) does not include **Pollution Condition(s)**.

5. **Bodily Injury** means, sickness, disease, mental anguish, emotional distress or physical injury sustained by any person, including death resulting therefrom. **Bodily Injury** shall also include medical monitoring costs.

6. **Cargo** means goods, products or wastes carried for delivery on or within: (a) an automobile, van, truck, trailer or semitrailer designed and registered to travel on public roads; or (b) an aircraft, rolling stock, or watercraft, by a carrier that is properly licensed to transport such goods, products or wastes.

7. **Claim(s)** means written notice:

- a. To an **Insured** seeking to hold any **Insured** responsible for **Cleanup Costs**, **Environmental Damage**, **Bodily Injury**, **Property Damage**, or **Damages**; and
- b. By the **Insured** seeking coverage for **Cleanup Costs** or **Public Relations Expenses** resulting from **Pollution Condition(s)** or **Biological Agent Condition(s)**.

8. **Cleanup Costs** means the reasonable and necessary costs incurred to investigate, test, sample, monitor, remove, remediate, dispose, treat, neutralize, or immobilize **Pollution Condition(s)** or **Biological Agent(s)** to the extent required by **Environmental Law** in the jurisdiction of such **Pollution Condition(s)** or **Biological Agent(s)**.

Cleanup Costs shall also include actions undertaken to repair, replace or restore tangible property to substantially the same condition such tangible property was in prior to being damaged during work performed in the course of incurring **Cleanup Costs**.

9. **Completed Operations** means **Covered Operations** that have been completed. For the purposes of determining when work has been completed, **Covered Operations** shall be deemed completed at the earliest of the following times:
- a. When all of the work called for in the **Insured's** contract has been completed;
 - b. When all of the work to be done at the job site has been completed if the **Insured's** contract calls for work at more than one job site; or
 - c. When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

10. **Covered Operations** means activities performed for third parties, by or on behalf of the **Insured**, and includes **Completed Operations** associated with such activities.

Covered Operations includes:

- a. **Transportation**, whether conducted for the movement of the **Insured's** own materials and equipment or provided as a service to third parties; and
- b. Ancillary activities performed by the **Insured** for itself that are necessary for the performance of **Covered Operations** but not directly performed for third parties, including but not limited to temporary use of storage areas, job site preparation, or mobilization of equipment and materials.

11. **Damages** means those amounts an **Insured** is legally obligated to pay on account of a **Wrongful Act**.

12. **Defense Expenses** means the reasonable and necessary legal costs, charges and expenses incurred by the Company, fees and expenses of any third-party administrator for the Company or, with the prior written approval of the Company, by an **Insured**, in the investigation, adjustment or defense of **Claims**. **Defense Expenses** do not include salary charges of regular employees or officials of the Company, fees and expenses of supervisory counsel retained by the Company, or the time and expense incurred by the **Insured** in assisting in the investigation of or resolving a **Claim** or in connection with **Cleanup Costs**, including, but not limited to, the cost of the **Insured's** in-house counsel, unless otherwise indicated.

13. **Design Professional** means those qualified persons or entities under written contract with an **Insured** to perform **Professional Services**.

14. **Design Professionals Insurance** means all available professional liability insurance policies, whether designated as primary or excess, where the **Design Professional** is an insured, including any professional liability insurance issued to design sub consultants.

15. **Disciplinary Proceeding** means any proceeding by an administrative, regulatory, or disciplinary official, board, or agency, to investigate charges or allegations of professional misconduct in the performance of or failure to perform **Professional Services**, including an initial inquiry before a state or federal licensing board or peer review committee. However, **Disciplinary Proceeding** shall not include a criminal proceeding or an Organizational Peer Review.

16. **Emergency Mitigation Action** means action that is necessary to clean up a **Pollution Condition** or **Biological Agent Condition** has been discovered that presents an immediate, dangerous and significant threat to human health or the environment where any delay by the **Insured** would cause further injury to persons or damage to property or increase significantly the cost of responding to a potential **Claim**. Prior written approval from the Company is required after expiration of the 72 hour period before the **Insured** may incur any additional **Cleanup Costs** or other costs or expenses to which this **Policy** would otherwise apply.
17. **Environmental Damage** means physical damage to the environment, including but not limited to surface water, groundwater, soil, flora, or fauna, that results in **Cleanup Costs** being required. With respect to **Biological Agents**, **Environmental Damage** includes physical damage to buildings or structures, or systems within such buildings or structures, that results in **Cleanup Costs** being required. **Environmental Damage** shall not include **Property Damage**.
18. **Environmental Laws** means any federal, state, provincial, foreign or local laws (including, but not limited to, statutes, rules, regulations, ordinances, guidance documents, and governmental, judicial or administrative orders and directives) that are applicable to **Pollution Condition(s)** or **Biological Agent Condition(s)**.
19. **First Named Insured** means the person(s) or organization(s) described as the **First Named Insured** in the Declarations.
20. **Green Building Materials** means environmentally preferable, sustainable, and/or energy efficient building products or materials that are recognized by The Leadership in Energy and Environmental Design (LEED®), Green Globes Assessment and Rating System, International Green Construction Code or Energy Star.
21. **Insured** means:
- a. The **First Named Insured**;
 - b. Any entity of which the **First Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest on or before the inception date of this **Policy**;
 - c. Any present or former director, officer, manager, partner, principal, trustee, member, shareholder, employee, volunteer, **temporary worker or leased worker** of the **First Named Insured**, but only while acting within the scope of his/her duties as such;
 - d. Any **Insured** with regard to its participation in a legal entity or joint ventures, but only with respect to **Liabilities** arising out of **Professional Services** or **Covered Operations** performed by or on behalf of the **First Named Insured**; **Insured** does not include the legal entity or joint venture itself, except as respects liability assumed by the **First Named Insured** for a **Pollution Condition** or **Biological Agent Condition**;
 - e. With regard to Coverage A – COVERED OPERATIONS only, any client of the **First Named Insured** or entity or person that requires the **First Named Insured** in a written contract, agreement, or permit to add such person or organization to this **Policy** as an “Additional Insured”, but only to the extent required and up to the limits required in such written contract or agreement;

- f. The estate, heirs, executors, administrators, and legal representatives of each **Insured** in the event of death, incapacity or bankruptcy, but only with respect to the liability of each **Insured** as otherwise covered by this **Policy**;
- g. Any other person or organization listed as an **Insured** by endorsement to this **Policy**;
- h. Any organization newly formed or acquired by the **First Named Insured** during the **Policy Period** and in which, thereafter, the **First Named Insured** has more than a fifty percent (50%) ownership interest. However, coverage for such organization(s) shall apply:
 - i. Only to **Professional Services** or **Covered Operations** performed on or after the date of formation or acquisition or exercised financial or management control; and
 - ii. Until the ninetieth (90th) day following the date of formation or acquisition or until the end of the **Policy Period**, whichever is earlier. After the ninetieth (90th) day, coverage shall only apply if such organization(s) has been endorsed to the **Policy** by the Company. Before doing so, the Company may, at its sole discretion, require additional information, including but not limited to a completed **Application**, loss history, or information regarding the operations of such organization(s), and may also require an additional premium.

22. **Insured Contract** means:

- a. With respect to any **Claim** arising from **Covered Operations** or **Professional Services**:
 - i. A contract or agreement with a client in which the **Insured** assumes liability for the operations of subcontractors for work performed on behalf of the **Insured** by such subcontractors;
 - ii. A sidetrack agreement;
 - iii. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
 - iv. That part of any other contract or agreement pertaining to **Covered Operations** or **Professional Services** of the **Insured** (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Insured** has assumed the tort liability of another party to pay for **Environmental Damage, Cleanup Costs, Bodily Injury, Property Damage** or **Damages** to a third party. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- b. With respect to any **Claim** arising from a **Scheduled Location** or **Ancillary Location**, a contract or agreement that is approved by the Company and scheduled by endorsement to the **Policy** as an **Insured Contract**.

23. **Insured Product** means:

- a. Any goods or products, other than real property, manufactured, sold, supplied, or distributed by the **Insured**, others trading under the **Insured**'s name or a person or organization whose business or assets the **Insured** has acquired; and
- b. Containers, materials, parts or equipment furnished in connection with such goods or products.

Insured Product includes warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of an **Insured Product** and the providing of or failure to provide warnings or instructions.

Insured Product does not include waste sold or relinquished to a third party to be recycled or reused in lieu of disposal.

24. **Interrelated** means having as a common nexus any fact, circumstance, situation, event, transaction, or cause, or series of causally or logically connected facts, circumstances, situations, events, transactions, or causes.
25. **Mitigation Costs** mean those direct costs or expenses that are necessarily incurred, with the prior written consent of the Company, in order to mitigate or rectify **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** that would reasonably be expected to lead to a covered **Claim** under this Policy. **Mitigation Costs** do not include any costs or expenses that result in a betterment of the **Insured's** work.
26. **Natural Resource Damages** means physical injury to or destruction of, including the resulting loss of value of, land, fish, wildlife, biota, air, water, groundwater, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), any state or local government, any foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.
27. **Non-owned Disposal Site** means any treatment, storage or disposal facility used by an **Insured** provided that:
- as of the date the waste or material is treated, stored or disposed of, the site is permitted or licensed by the applicable federal, state, local or provincial authorities to accept such waste or material,
 - as of the inception date of this **Policy** is not a Superfund Site or currently being investigated under the Comprehensive Environmental Response Compensation and Liability Act of 1980.
- Non-owned Disposal Site** does not include any treatment, storage or disposal facility that is owned, operated, managed leased or rented at any time by an **Insured** or any subsidiary or affiliate.
28. **Policy** means this document as well as the **Application**, all endorsements, the Declarations, modifications and addenda thereto.
29. **Policy Period** means the period set forth in the Declarations, any shorter period arising as a result of cancellation or any other period as changed by endorsement.
30. **Pollutant(s)** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, toxic chemicals, liquids or gases, other irritants or contaminants or any discarded materials of any kind. **Pollutant(s)** includes electromagnetic fields, medical waste, and low level radiological material. **Pollutant(s)** also includes silt or sedimentation originating from a job site at which **Covered Operations** are being performed that has migrated off such job site.

Pollutants shall not include:

- a. “Source Material,” “Special Nuclear Material” or “By-product Material” as such terms are defined in the Atomic Energy Act of 1954;
- b. Any materials described in a. above for which the **Insured** is protected under the Price Anderson Act, or under any indemnity from the United States Department of Energy or any governmental authority of the United States or any other nation; or
- c. **Biological Agents**.

31. **Pollution Condition(s)** means the discharge, dispersal, release or escape of **Pollutants**. **Pollution Condition(s)** includes the illicit abandonment of **Pollutants** at a **Scheduled Location, Ancillary Location** or job site at which **Covered Operations** are being performed, provided that such illicit abandonment was committed by a person or organization that is not an **Insured**, and without the knowledge of an **Insured**.

Pollution Condition(s) does not include a **Biological Agent Condition(s)**.

32. **Professional Services** means services performed for third parties, by or on behalf of the **Insured** as follows:

- a. only those services the **Insured** is qualified to perform for others in the **Insured’s** capacity as an architect, engineer, land surveyor, landscape architect, construction manager, interior designer, environmental consultant, scientist, land planner, or space planner; or as an expert witness, technical consultant, or LEED Certification Consultant with respect to the foregoing listed services;.
- b. construction management, program management, project management, owner’s representation and any design delegated responsibility or design assist performed by the **Insured**, including but not limited to constructability reviews or value engineering;
- c. professional services with respect to any Building Information Modeling (BIM) systems, including but not limited to modification or alteration, transfer, protection, manipulation, use or misuse thereof; or
- d. ordinary technology services utilized in the performance of **Professional Services** described above. Such technology services include the design, development, programming, analysis, training, use, hosting, management, support and maintenance of any software, database, internet service, or website.

Professional Services do not include any activities in connection with construction means, methods or techniques; site safety; crane erection and use; scaffolding; or any temporary fencing or structures.

33. **Property Damage** means:

- a. Physical injury to or destruction of tangible property of persons or organizations other than the **Insured**, including the resulting loss of use and diminution in value thereof;
- b. Loss of use of tangible property of persons or organizations other than the **Insured** that has not been physically injured or destroyed, excluding any diminution in value of such property;

- c. **Natural Resource Damages**; or
- d. The diminution of value of tangible property of persons or organizations other than the **Insured** that is directly attributable to the effects of **Pollution Condition(s)** or **Biological Agent Condition(s)**;

but only to the extent the above injuries are not already remedied by **Cleanup Costs**. For purposes of determining the extent, if any, of diminution in value, the value of the tangible property injured shall equal the replacement cost of such property reduced by physical depreciation and obsolescence as of the time the damage to such tangible property was sustained.

Property Damage does not include **Cleanup Costs** and **Environmental Damage**.

For the purposes of this definition of **Property Damage** only, the definition of **Insured** shall not include:

- i. Clients for whom the **Covered Operations** are or were performed;
 - ii. Owners, financiers or lenders of a project at which **Covered Operations** are or were performed;
 - iii. Owners or managers of real property at which **Covered Operations** are or were performed;
 - iv. Owners of equipment or property leased, rented or borrowed by the **Named Insured** or by those performing **Covered Operations** on behalf of the **Named Insured**, but only with respect to **Covered Operations**; or
 - v. Persons or organizations added to the **Policy** as additional **Insureds** by endorsement.
34. **Protective Claim** means a written demand, demand for arbitration or mediation or a suit instituted by the **Insured** against the **Design Professional** seeking a remedy and alleging liability or responsibility on the part of such **Design Professional** arising from a **Wrongful Act(s)** in the performance or failure to perform **Professional Services**. **Protective Claim** does not include a demand or proceeding for non-monetary or injunctive relief.
35. **Public Relation Expenses** means reasonable and necessary expenses incurred by the **Insured**, and with the Company's prior written consent:
- a. After a newspaper or magazine publication or television news broadcast alleging responsibility on the part of an **Insured** for a **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**;
 - b. For public relations or crisis management firms to restore public reputation and consumer confidence relating to the **Insured**;
 - c. At the request or recommendation of such public relations or crisis management firms, including any advertisement in any media if the Company provides its prior written consent to such advertisement; and
 - d. provided that such expenses are incurred within fourteen (14) days of the first such publication or broadcast and within thirty (30) days of the commencement of the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**.

36. **Responsible Person** means any officer, director, partner or other employee responsible for environmental affairs of the **Insured**.
37. **Retroactive Date** means:
- a. With respect to any **Covered Operations** or **Professional Services**, the date described as such and set forth in the Declarations or any applicable endorsement to the **Policy**, which is the earliest date that any **Covered Operations** or **Professional Services** can be performed for any coverage to be provided under this **Policy**; and
 - b. With respect to any **Scheduled Location(s)**, the date described as such and set forth in the Declarations, on a Scheduled Location(s) Endorsement, or any applicable endorsement to the **Policy**, which is the earliest date that a **Pollution Condition(s)** or **Biological Agent Condition(s)** can commence for any coverage to be provided under this **Policy**.
38. **Scheduled Location** means any location(s) designated on a Scheduled Location(s) Endorsement.
39. **Termination Date** means the effective date and hour of cancellation or expiration of this **Policy**.
40. **Transportation** means the movement of **Cargo** from its point of origin to the place of final delivery, including the loading or unloading of such **Cargo**. **Transportation** does not include (i) any movement within the legal boundaries of a **Scheduled Location**, **Ancillary Location** or **Non-owned Disposal Site**, or (ii) any intentional dispersal or release of **Cargo** from an aircraft.
41. **Ultimate Loss** means the amount the **Insured** is legally entitled to recover from each responsible **Design Professional** either by final adjudication by a court of competent jurisdiction, settlement, arbitration or any other method of dispute resolution to which the Company agrees in writing. Such **Ultimate Loss** must be the result of a **Wrongful Act(s)** of a **Design Professional**. In the event that multiple **Design Professionals** cause the same or related loss, the amount of **Ultimate Loss** shall not exceed the single loss caused by such multiple **Design Professionals**.
42. **Wrongful Act** means an actual or alleged negligent act, error or omission committed or attempted in the performance of, or failure to perform, **Professional Services**.

Emergency Mitigation Actions, but in no event later than seventy-two (72) hours after the **Pollution Condition(s)** or **Biological Agent Condition(s)** has been discovered.

M. NOTICE OF CIRCUMSTANCES

If during the **Policy Period** any **Insured** first becomes aware of any fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** which may reasonably be expected to give rise to a **Claim** that would be covered under this **Policy**, and provided that the **Insured** gives written notice to the Company of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** during the **Policy Period**, then any **Claim** that may subsequently be made against any **Insured** arising out of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** shall be deemed for purposes of this **Policy** to have been made during the **Policy Period**.

As a condition precedent to exercising its rights hereunder, the **Insured** shall include within any such notice a full description of the fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)**, that is the subject of the notice, the nature or extent of the injury or potential damages, the names of the potential claimants, the manner in which the **Insured** first became aware of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)**, and give the Company any such additional information and cooperation as it may reasonably request.

N. **OTHER INSURANCE**

This **Policy** shall be in excess of the amount of the applicable Self-Insured Retention of this **Policy** and excess of any other insurance or indemnification available to the **Insured**, whether such insurance or indemnification is collectible or uncollectible, and whether such insurance is stated to be primary, pro rata, contributory, excess, contingent, or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this **Policy**. However, under Coverage A, when the **Insured** is required by contract, agreement or permit to include any person or entity as an additional insured, such coverage shall be provided on a primary and non-contributory basis.

O. REPRESENTATIONS AND COVENANTS

The **First Named Insured** acknowledges and agrees that:

1. The information, warranties and representations contained in the **Application** submitted by the **Insured** as well as in all supplemental documents provided herewith are true, correct and complete;
2. The Company has issued this **Policy** in specific reliance upon the truth and accuracy of the warranties and representations contained in the **Application**; and
3. All activities of the **Insured** have been and will be conducted in full compliance with **Environmental Laws**.

The **Application**, the Declarations and endorsements, if any, are incorporated into, and are part of, this **Policy** and embody all agreements existing between the **First Named Insured** and the Company and supersede all prior agreements, whether written or oral, expressed or implied.

P. SEPARATION OF INSURED

Except with respect to the Limits of Liability, the Insured versus Insured exclusion and the Known Conditions exclusion under the Exclusions section, and any rights or duties specifically assigned to the **Insured**, this **Policy** applies:

1. As if each **Insured** were the only **Insured**; and
2. Separately to each **Insured** against whom a **Claim** is made.

In the event of any misrepresentation, concealment, breach of condition or violation of any obligation under this **Policy** by any one **Insured**, such misrepresentation, concealment, breach of condition or violation of any obligation will not prejudice any other **Insured** that did not participate or assist in, or have knowledge of, such misrepresentation, concealment, breach of condition or violation of any obligation unless the **Insured** that misrepresented, concealed or breached a term or condition of or violated an obligation under this **Policy** is a parent, subsidiary or affiliate of the **Insured**.

Q. SUBROGATION

In the event that the Company pays any amount under this **Policy**, the Company shall be subrogated to all of each **Insured's** rights of recovery against any person or organization. All **Insureds** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. No **Insured** shall do anything to waive or prejudice such rights. Any recovery obtained through subrogation, after expenses incurred in such subrogation are deducted by the Company, shall be applied first to the **Insured** to the extent of any payments in excess of the Limits of Liability under this **Policy**, if any, then to the Company to the extent of its payment under the **Policy**, and then to the **Insured** to the extent of any retention or deductible. However, if the **Insured** has, prior to the time the **Wrongful Act(s), Pollution Condition(s), Biological Agent Condition(s)** is discovered or the **Damages, Bodily Injury, Property Damage or Cleanup Costs** to which this **Policy** applies takes place, waived subrogation rights against a person or organization in a written contract or agreement, the Company hereby waives any rights of recovery against such person or organization, provided that such person or organization is not a subcontractor of the **Insured**.

R. TERRITORY

This **Policy** only applies to a **Claim** first brought within the United States of America, its territories or possessions, or Canada.

S. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Any rights and duties under this **Policy** may not be transferred without the Company's prior written consent except in the case of death of an individual **Insured**. If an individual **Insured** dies, the rights and duties will be transferred to the individual **Insured's** legal representative but only while acting within the scope of duties as the individual **Insured's** legal representative. Until the individual **Insured's** legal representative is appointed, anyone having proper temporary custody of the individual **Insured's** property will have the individual **Insured's** rights and duties but only with respect to that property.

VIII. DEFINITIONS

16. **Emergency Mitigation Action** means action that is necessary to clean up a **Pollution Condition** or **Biological Agent Condition** has been discovered that presents an immediate, dangerous and significant threat to human health or the environment where any delay by the **Insured** would cause further injury to persons or damage to property or increase significantly the cost of responding to a potential **Claim**. Prior written approval from the Company is required after expiration of the 72 hour period before the **Insured** may incur any additional **Cleanup Costs** or other costs or expenses to which this **Policy** would otherwise apply.
17. **Environmental Damage** means physical damage to the environment, including but not limited to surface water, groundwater, soil, flora, or fauna, that results in **Cleanup Costs** being required. With respect to **Biological Agents**, **Environmental Damage** includes physical damage to buildings or structures, or systems within such buildings or structures, that results in **Cleanup Costs** being required. **Environmental Damage** shall not include **Property Damage**.
18. **Environmental Laws** means any federal, state, provincial, foreign or local laws (including, but not limited to, statutes, rules, regulations, ordinances, guidance documents, and governmental, judicial or administrative orders and directives) that are applicable to **Pollution Condition(s)** or **Biological Agent Condition(s)**.
19. **First Named Insured** means the person(s) or organization(s) described as the **First Named Insured** in the Declarations.
20. **Green Building Materials** means environmentally preferable, sustainable, and/or energy efficient building products or materials that are recognized by The Leadership in Energy and Environmental Design (LEED®), Green Globes Assessment and Rating System, International Green Construction Code or Energy Star.
21. **Insured** means:
- a. The **First Named Insured**;
 - b. Any entity of which the **First Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest on or before the inception date of this **Policy**;
 - c. Any present or former director, officer, manager, partner, principal, trustee, member, shareholder, employee, volunteer, **temporary worker or leased worker** of the **First Named Insured**, but only while acting within the scope of his/her duties as such;
 - d. Any **Insured** with regard to its participation in a legal entity or joint ventures, but only with respect to **Liabilities** arising out of **Professional Services** or **Covered Operations** performed by or on behalf of the **First Named Insured**; **Insured** does not include the legal entity or joint venture itself, except as respects liability assumed by the **First Named Insured** for a **Pollution Condition** or **Biological Agent Condition**;
 - e. With regard to Coverage A – COVERED OPERATIONS only, any client of the **First Named Insured** or entity or person that requires the **First Named Insured** in a written contract, agreement, or permit to add such person or organization to this **Policy** as an “Additional Insured”, but only to the extent required and up to the limits required in such written contract or agreement;

- f. The estate, heirs, executors, administrators, and legal representatives of each **Insured** in the event of death, incapacity or bankruptcy, but only with respect to the liability of each **Insured** as otherwise covered by this **Policy**;
- g. Any other person or organization listed as an **Insured** by endorsement to this **Policy**;
- h. Any organization newly formed or acquired by the **First Named Insured** during the **Policy Period** and in which, thereafter, the **First Named Insured** has more than a fifty percent (50%) ownership interest. However, coverage for such organization(s) shall apply:
 - i. Only to **Professional Services** or **Covered Operations** performed on or after the date of formation or acquisition or exercised financial or management control; and
 - ii. Until the ninetieth (90th) day following the date of formation or acquisition or until the end of the **Policy Period**, whichever is earlier. After the ninetieth (90th) day, coverage shall only apply if such organization(s) has been endorsed to the **Policy** by the Company. Before doing so, the Company may, at its sole discretion, require additional information, including but not limited to a completed **Application**, loss history, or information regarding the operations of such organization(s), and may also require an additional premium.

22. **Insured Contract** means:

- a. With respect to any **Claim** arising from **Covered Operations** or **Professional Services**:
 - i. A contract or agreement with a client in which the **Insured** assumes liability for the operations of subcontractors for work performed on behalf of the **Insured** by such subcontractors;
 - ii. A sidetrack agreement;
 - iii. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
 - iv. That part of any other contract or agreement pertaining to **Covered Operations** or **Professional Services** of the **Insured** (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Insured** has assumed the tort liability of another party to pay for **Environmental Damage, Cleanup Costs, Bodily Injury, Property Damage** or **Damages** to a third party. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- b. With respect to any **Claim** arising from a **Scheduled Location** or **Ancillary Location**, a contract or agreement that is approved by the Company and scheduled by endorsement to the **Policy** as an **Insured Contract**.

23. **Insured Product** means:

- a. Any goods or products, other than real property, manufactured, sold, supplied, or distributed by the **Insured**, others trading under the **Insured's** name or a person or organization whose business or assets the **Insured** has acquired; and
- b. Containers, materials, parts or equipment furnished in connection with such goods or products.