

AGENDA

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD,
ARIZONA, TO BE HELD DECEMBER 6, 2022, AT 6:00 PM., AT THE COTTONWOOD
RECREATION CENTER, 150 S. 6TH STREET, COTTONWOOD, AZ.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.
- V. PRESENTATIONS
NEW CITY WEBSITE.
- VI. CALL TO THE PUBLIC--This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02(H).) Comments are limited to a 3 minute time period.
- VII. APPROVAL OF MINUTES
WORK SESSION OF NOVEMBER 8, 2022
Comments regarding items listed on the agenda are limited to a 3 minute time period per speaker.
- VIII. UNFINISHED BUSINESS
 1. ORDINANCE NUMBER 725--ZONE CHANGE FOR APPROXIMATELY 1.7 ACRES OF LAND LOCATED AT 1642 AND 1644 EAST BIRCH STREET FROM AR-20 (AGRICULTURAL RESIDENTIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL); SECOND & FINAL READING.
- IX. MONTHLY FINANCIAL REPORT
 1. MONTHLY FINANCIAL REPORT--JULY, 2022
- X. CONSENT AGENDA--The following items are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

1. NEW LIQUOR LICENSE APPLICATION (012 RESTAURANT) FOR MARIA ELENA RODRIGUEZ, APPLICANT FOR THE GOLDEN DRAGON RESTAURANT LOCATED AT 1675 EAST COTTONWOOD STREET.
2. AUTHORIZATION TO ENTER INTO A LEASE AGREEMENT FOR THE PLACEMENT OF A PUBLIC SAFETY RADIO COMMUNICATIONS TOWER AND RELATED EQUIPMENT.
3. AUTHORIZATION TO TRANSFER THE NORTH 26 FEET (APPROXIMATELY) OF COTTONWOOD CEMETERY LAND (APN 406-36-174) TO SUSAN MASTERS.
4. AWARD OF BID AND APPROVAL OF CONTRACT WITH KP VENTURES WELL DRILLING & PUMP CO., LLC., FOR FABRICATION, INSTALLATION AND TESTING OF A WELLHEAD AND DOWNHOLE MULTIPOINT INJECTION SYSTEM FOR THE MINGUS WASTEWATER TREATMENT PLANT INJECTION WELL.

XI. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.

1. AWARD OF MULTIPLE CONTRACTS (BIG-O TIRES, EATON AUTOMOTIVE, HANSEN ENTERPRISES FLEET REPAIR AND REESE'S TIRE & AUTO) FOR CITY VEHICLE MAINTENANCE AND REPAIR SERVICES.

XII. CLAIMS AND ADJUSTMENTS

XIII. ADJOURNMENT

Pursuant to A.R.S. §38-431.03.(A) the Council may vote to go into executive session on any agenda item pursuant to A.R.S. §38-431.03.(A)(3) and/or A.R.S. §38-431.03(A)(4) Discussion or consultation for legal advice with the attorney or attorneys of the public body.

The Cottonwood Council Chambers is accessible to the disabled in accordance with Federal "504" and "ADA" laws. Those with needs for special typeface print or hearing devices may request these from the City Clerk (TDD 634-5526.) All requests must be made 24 hours prior to the meeting.

Members of the City Council will attend either in person or by telephone conference call.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

MINUTES OF THE WORK SESSION OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD NOVEMBER 8, 2022, AT 6:00 P.M., AT THE COTTONWOOD COUNCIL CHAMBERS BUILDING LOCATED AT 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

Mayor Elinski called the meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Tim Elinski, Mayor
Doug Hulse, Council Member
Helaine Kurot, Council Member
Debbie Wilden, Council Member

COUNCIL MEMBERS ABSENT

Jackie Nairn, Vice Mayor
Tosca Henry, Council Member
Michael Mathews, Council Member

STAFF MEMBERS PRESENT

Ron Corbin, City Manager
Tami Mayes, Deputy Clerk
Steve Horton, City Attorney
Gary Davis, Senior Planner
Scott Ellis, Community Development Director
Kirsten Lennon, Financial Services Director
Kristina Hayden, Planner

ITEMS FOR DISCUSSION, CONSIDERATION AND POSSIBLE DIRECTION TO STAFF:

PUBLIC PARTICIPATION PLAN FOR UPDATING THE CITY'S GENERAL PLAN

Mr. Davis stated we wanted to brief you on our draft public participation plan. State law requires cities to adopt written procedures providing effective, early, and continuous public participation in development and updates of the General Plans. Our basic methods are going to include emails; compiling a mailing list for persons wanting automatic information and updates on events. The City website will have our own page dedicated to updating people on events and the process. Media will include press releases as well as whatever we can do on social media pages, open houses, and direct outreach involving proactive visiting of groups, boards and commissions' meetings, and community events. Our first event will be this Saturday at the Walkin' on Main. We will have a booth there. We will have workshops that are a little more focused. This is where we are envisioning a workshop on specific topics, i.e., transportation, water, et cetera. We will hopefully bring staff who can really give a back and forth on where we're at and what kind of information people want to see in the plan. Planning and Zoning Commission and Council need to hold public hearings on this. Participants can be citizens as well as local organizations, cities' boards and commissions, and public agencies. In past years, we've had what is called a steering committee where we have volunteers come in and be the steering committee separate from the Planning and Zoning Commission. We know that it's been kind of an issue keeping people on commissions and keeping interest in something going forward. We're thinking we already have a citizen's body (Planning and Zoning Commission) that is interested in and specializes in community

planning. We are thinking, to a great extent, that they could act as the steering committee. They will be holding the public hearings anyway. Those focused meetings that we mentioned, those could be regular people that want to show up at each one of those particular things. So this seemed like a good way without having to try to create a whole new committee. Of course, City Council and staff are going to be driving it.

For our schedule, we've already started on our email list compilation. We'll be working on webpage development and doing direct outreach to groups, open house meetings, and periodic updates with the Planning and Zoning Commission. We're talking about open houses and gathering comments on vision and values. The foundation of the General Plan is what the vision and values are for people in the community and for Council and Commission to base the draft on. Once we have meetings and make sure that we know what the general vision and values are, if it's going to be greatly different from ten years ago or if it's going to be pretty much the same, we'll know that as we go into drafting the General Plan. As we do that, we'll consult with other City departments and other public agencies. Late 2023, we'll do direct outreach again, group meetings, and present the draft of the General Plan. We don't just put a blank piece of paper in front of people and say, hey, what do you want. We'll have something that they can look at, react to, and we can make changes as it goes forward. We'll have workshops and open house meetings to review the draft, and then go to public hearings with Planning and Zoning Commission. Thinking about mid-2024, we'll have the public hearings with the City Council, and the City Council will set it for public vote. It has to go to public vote to ratify it, so hopefully late 2024 we'll get it ratified. The next steps are compiling our email list. We'll be at Walkin' on Main this Saturday, and at Walkin' on Main, we'll start discussing visions and values – again, the big picture – and then draft the plan based on that, and then take that plan out for review.

Council Member Wilden asked about media, how to get something on the radio, and if Jackie (Bessler) could help with that.

Mr. Davis stated we'll look at all kinds of different ways to do that. We've got press releases, but if there is a special way that we can make sure that we get on the broadcast media, too, that's a great point.

Mr. Corbin stated our Economic Development and Tourism Director, Tricia (Lewis), does a monthly radio show now. Maybe they can go to that as well to get that out. Of course, Inside Cottonwood, I'm assuming Mr. Rodriguez will take that up. The Mayor has Inside Cottonwood as well for the YouTube channel. We'll try those two media options as well.

Mayor Elinski stated I like the plan. I really like the idea of having some working groups focused on particular areas of concern. He then asked how we will get people to give you their email addresses, and if there is going to be a place on the website where we can direct folks to sign up.

Mr. Davis stated, yes, that's the plan. Everywhere we'll go, including down at Walkin' on Main, we'll have either a link where they can go to put in their email address or a signup sheet where they can just write it down and we can take it back.

Mayor Elinski stated it's kind of a big deal, so I appreciate you starting early with your robust plan. I think it's going to be a good General Plan.

Mr. Ellis stated one other option we have as well is we can put announcements or a flyer in the utility bills that go out to citizens. We can perhaps do that several times early on, get the word out, or if we have one of the bigger open houses or something, we could do that, just kind of reminders throughout the schedule to make sure that we get it out that way, too.

Council Member Kurot asked if we can put something online for those citizens who pay their utility bill online.

Ms. Lennon stated any insert that you do for the billing can also go with the online billing.

PROPOSED CITY BEAUTIFICATION AWARD PROGRAM

Ms. Hayden stated I have a proposal for a city beautification recognition program. For the 2021 to 2023 Strategic Plan, Guiding Principle 2.4, states, "To encourage and develop community pride." My program will encourage community cleanup practices. If one person participates, it could create a domino effect of other people wanting to get in. This cleaning up practice will instill civic pride in the community and a clean environment everyone is proud of. It gives us an opportunity to recognize and encourage environmental strategies such as xeriscaping and water management. I have researched other municipalities to see how they are rolling out their city beautification programs, and I've categorized it into three different groupings. The first one is an annual awards category where they will have multiple categories. Then at the end of the year, or at a certain time in the year, we will select winners that we think best suit. The second is quarterly, seasonal things. The third option is monthly-valuation criteria where we just choose one winner. We can either announce it once a month at a Council meeting, or we can announce it once a year for all 12 months. She then presented examples from Murray City, Utah, of a winner for best curb appeal and from Lakeland, Florida, for best tree.

She then stated our plan is to implement this next year. For the initial rollout, we're going to start with the annual award program and select four categories. We will see how many submissions we get, and then in the coming years we can add more categories or we can go to quarterly or monthly things. The target audience is going to be businesses that are established for one or more years. Again, if we get more submissions or interest from residents, we can have an awards program for the (personal) residences. Right now, we're looking to advertise on the City of Cottonwood's website, social media, and the local newspaper. There are also fliers that we can hand out and word of mouth. Our timeframe is to be open for nominations throughout April, and then we'll have our panel evaluations in May. We'll have an award presentation at City Council in June. This timeframe was selected

because, if we're going to do something with best blooms, this is the time of year that we're going to get that look. Right now the evaluation panel will consist of five members; one volunteer from City Council, a volunteer from the Planning and Zoning Commission, someone from Historic Preservation Commission, Community Development (yours truly), and then one member of the public.

I handed out the rubric I got from Creve Coeur, Missouri. I liked their categories of best in City, best common space use of native plants, and then the stormwater solutions. There's also the options of best curb appeal and best tree. What we're looking at is, each panel member would receive this sheet with all the nominations listed right here on the left. Each category would be a score of one to five points, and then each nominee could receive up to 40 points. We'll take the average to see who has the best score. The award winners will receive recognition. At City Council, they'll receive an award plaque. We'll have a yard sign for them to have bragging rights, local newspaper, an update on the City of Cottonwood website, and in the social media page.

Mayor Elinski asked who will nominate the individuals, the homes, or the businesses.

Ms. Hayden stated it can be a self-nomination or a patron or a neighbor.

Mayor Elinski asked how, mechanically, it will work out; if they'll email Ms. Hayden with the nomination, or whoever, then a list will be compiled of all the nominations.

Ms. Hayden stated we'll be updating the website so that they can have online submissions. I've been kind of following Creve Coeur, Missouri's, model. They allow up to four photos per submission so that we can get a better feel of what they are seeing. Also, when we do our evaluation, we can do in-person evaluations depending on how many submissions we receive.

Council Member Wilden asked if it will be City businesses as well.

Ms. Hayden stated right.

Council Member Wilden stated we could contact the Chamber as well and they can put something in their newsletter and in their lobby.

Mr. Corbin stated our City Clerk reminded us, the Chamber actually did this program for a little while. We'll reach out to them and work with them to see what they did so we don't have to reinvent the wheel. Council enacted, over the last few years, a lot of accountability measures when it comes to keeping yards clean and those kinds of issues. This is our goal of rewarding those businesses that go out of their way to create beautiful landscaping and do the right thing for our community. I really like the idea of the yard sign so that people know that the City is paying attention and that people get a lot of bragging rights.

Mayor Elinski stated this will be great. Just so I'm clear, people will self-submit or residents will submit a business as their favorite. He then asked if we will tally up the top three that get the most nominations for this committee to evaluate.

Ms. Hayden stated depending on how many submissions we receive, we may trim it down to do like the top five, or we can extend it to runner up as well. At this phase, with the initial rollout, there may not be a lot of submissions. This is a wait-and-see, and then we'll react for next year.

Mr. Corbin stated there's no limit on the number of yards that can be evaluated for a different award. In addition, if Council has an opinion on the awards, that's what we're here tonight for as well. I don't know that we're really set in stone for all of that yet. These were just initial thoughts on this. We've really got until April to get it honed in. The idea, I imagine, is that first committee will have a lot of leeway on how they figure out how to do that.

Mayor Elinski stated I think the categories are great and it aligns with our landscaping requirements and City values. I think it's perfect.

Council Member Hulse stated it's going to be a nice program.

Ms. Hayden stated we're seeking volunteers for the Council Member position.

ADJOURNMENT

Mayor Elinski moved to adjourn the work session. The motion was seconded by Council Member Hulse and carried. The work session was adjourned at 6:17 p.m.

City of Cottonwood, Arizona
City Council Agenda Communication



"Inspiring a Vibrant Community"

 [Print](#)

Meeting Date:	December 6, 2022
Subject:	Zone change from AR-20 (Agricultural Residential) to R-3 (Multiple Family Residential) for approximately 1.7 acres of land located 375 feet east of S. Main Street and north of E. Birch Street, at 1642 and 1644 E. Birch Street.
Department:	Community Development
From:	Tina Hayden, Community Development Planner

REQUESTED ACTION

Second and final reading of Ordinance Number 725, a zone change from AR-20 (Agricultural Residential) to R-3 (Multiple Family Residential) for approximately 1.7 acres located 375 feet east of S. Main Street and north of E. Birch Street, at 1642 and 1644 E. Birch Street.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to approve Ordinance 725."

BACKGROUND

The applicant owns two adjacent parcels on the north side of Birch Street, approximately 375 feet east of S. Main Street. Both parcels are "through lots" that front both Birch Street and Beech Street and are equivalent in size. Currently, both parcels are zoned AR-20 (Agricultural Residential) which does not permit multi-family residential use at the applicant's proposed density of 23 units per acre. The R-3 zone permits multi-family residential development at densities up to 29 units per acre.

The site is adjacent to lots that are zoned R-2 (Single Family/Multiple Family Residential) and R-4 (Multiple Family & Manufactured Residential). The applicant proposes to construct a 40-unit apartment complex that is similar to the land use and density of adjacent properties. The proposed apartment complex features four 2-story,

contemporary-style buildings, with each building consisting of two efficiency units, four 1-bedroom units, and four 2-bedroom units. Each building also features 10 covered parking spaces and private outdoor patio/porch space for each unit. There is additional parking available in the center of the complex between drive aisles.

On August 20, 2022 the applicant held the required neighborhood meeting to which all owners of property within 300 feet were invited. Property owners in attendance were concerned that the project was intended to house employees of an area resort. Other concerns were expressed about increased traffic and traffic safety (see attached summary).

On October 17, 2022, the Planning and Zoning Commission held a public hearing regarding a proposed General Plan amendment, zone change, and design review for this project. The Commission unanimously recommended approval of the General Plan amendment and zone change. The accompanying design review submittal was unanimously approved pending approval of the proposed rezoning.

On November 15, 2022 City Council held a public hearing and first reading of the Ordinance and approved Resolution 3152 which designates the land use of these parcels as HR (High Density Residential) in the City's General Plan.

JUSTIFICATION/BENEFITS/ISSUES

This proposed zone change would allow for multi-family housing to be developed at a density of up to 29 units per acre. The proposed infill development and revitalization is supported by the General Plan's designated/permitted land uses in the area, and consistent/compatible with those uses.

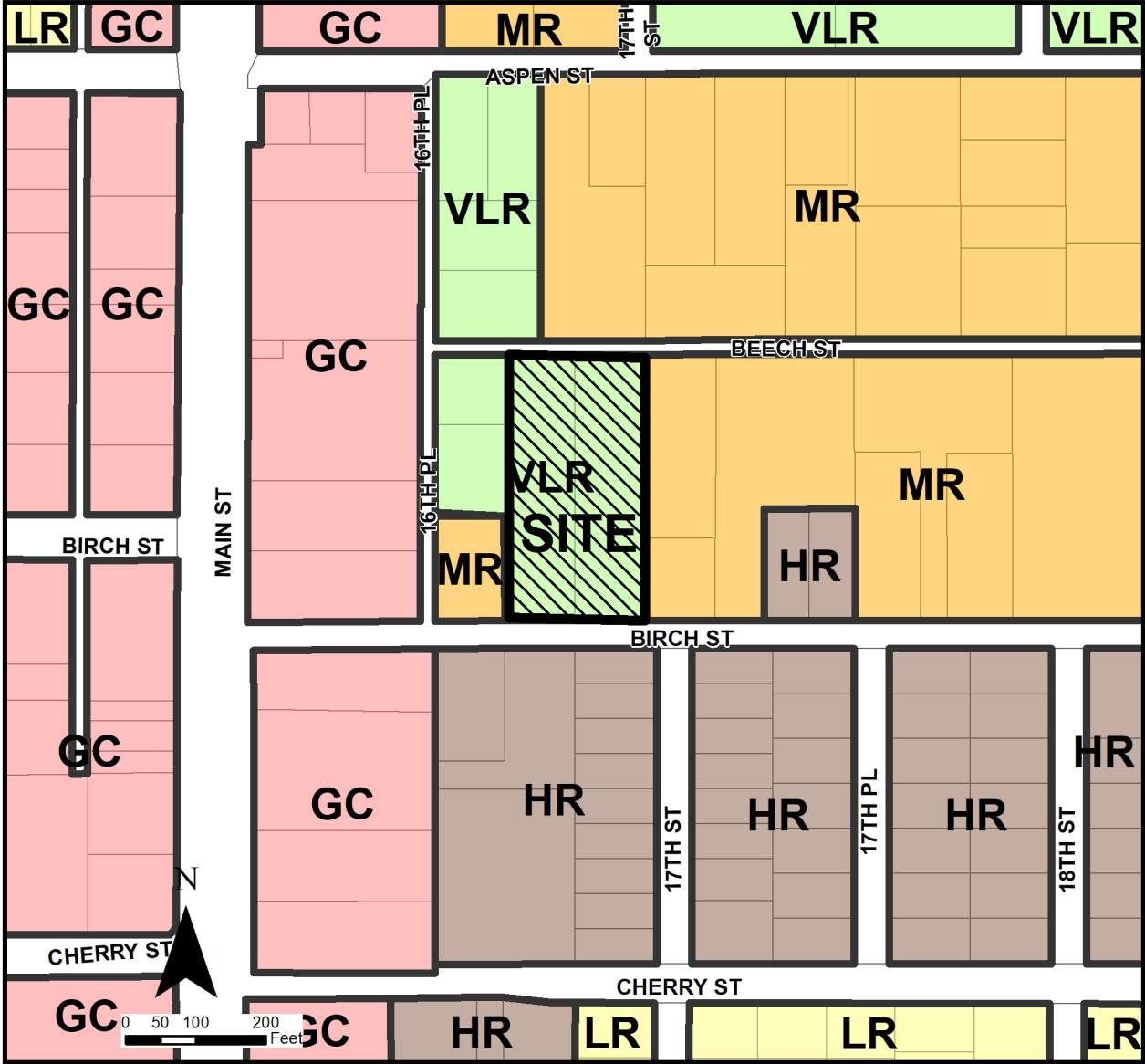
COST/FUNDING SOURCE



There is no cost associated with this proposed zone change.

ATTACHMENTS:

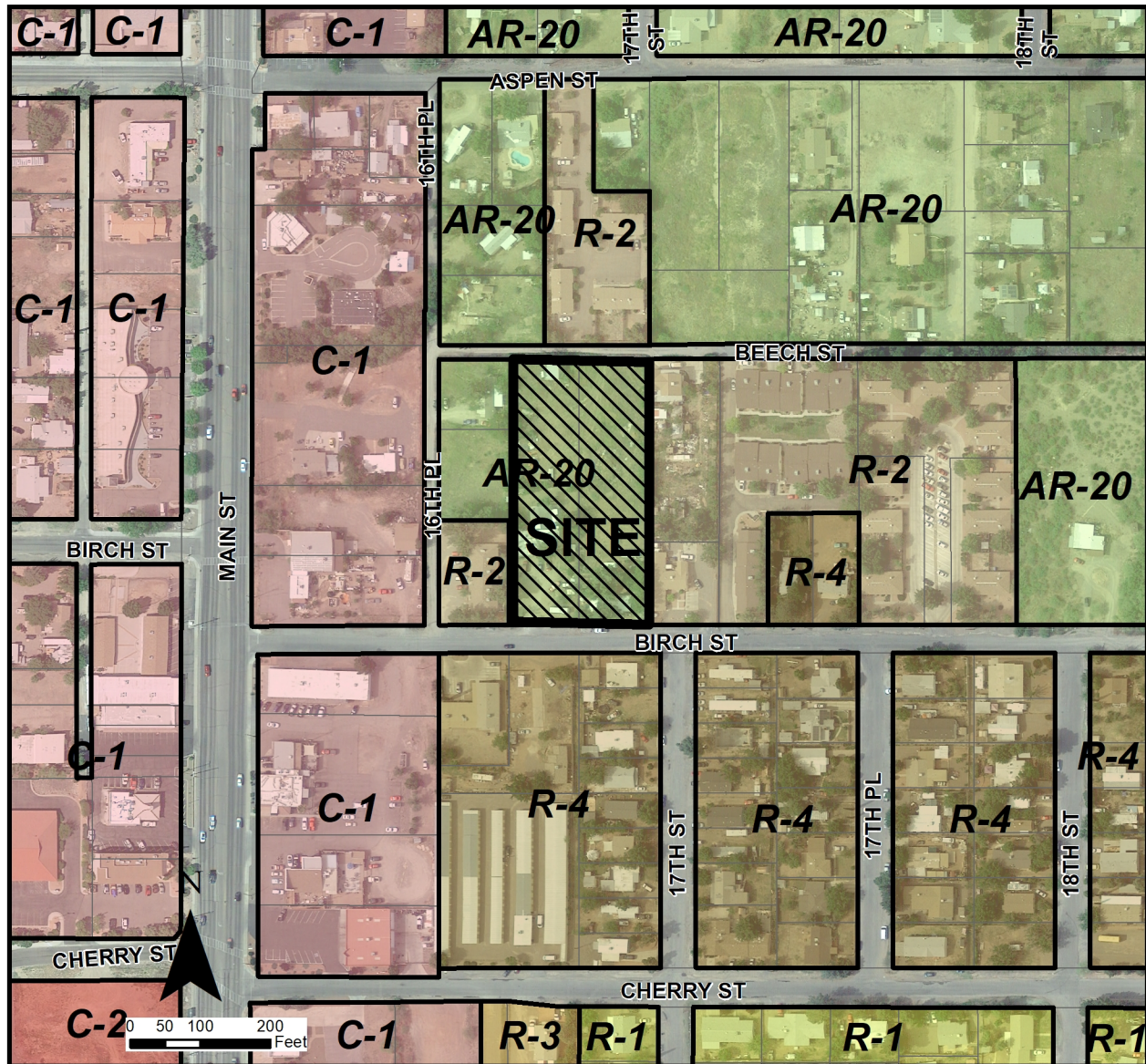
File Name	Description	Type
VoB_GP_Land_Use_Map.pdf	Land Use Map	Backup Material
VoB_Zoning_Map.pdf	Zoning Map	Backup Material
VoB_Site_Plan.pdf	Site Plan	Backup Material
8_Summary_of_Neighborhood_Meeting.pdf	Summary of Neighborhood meeting	Backup Material
Ord725-2.docx	Ordinance 725	Cover Memo

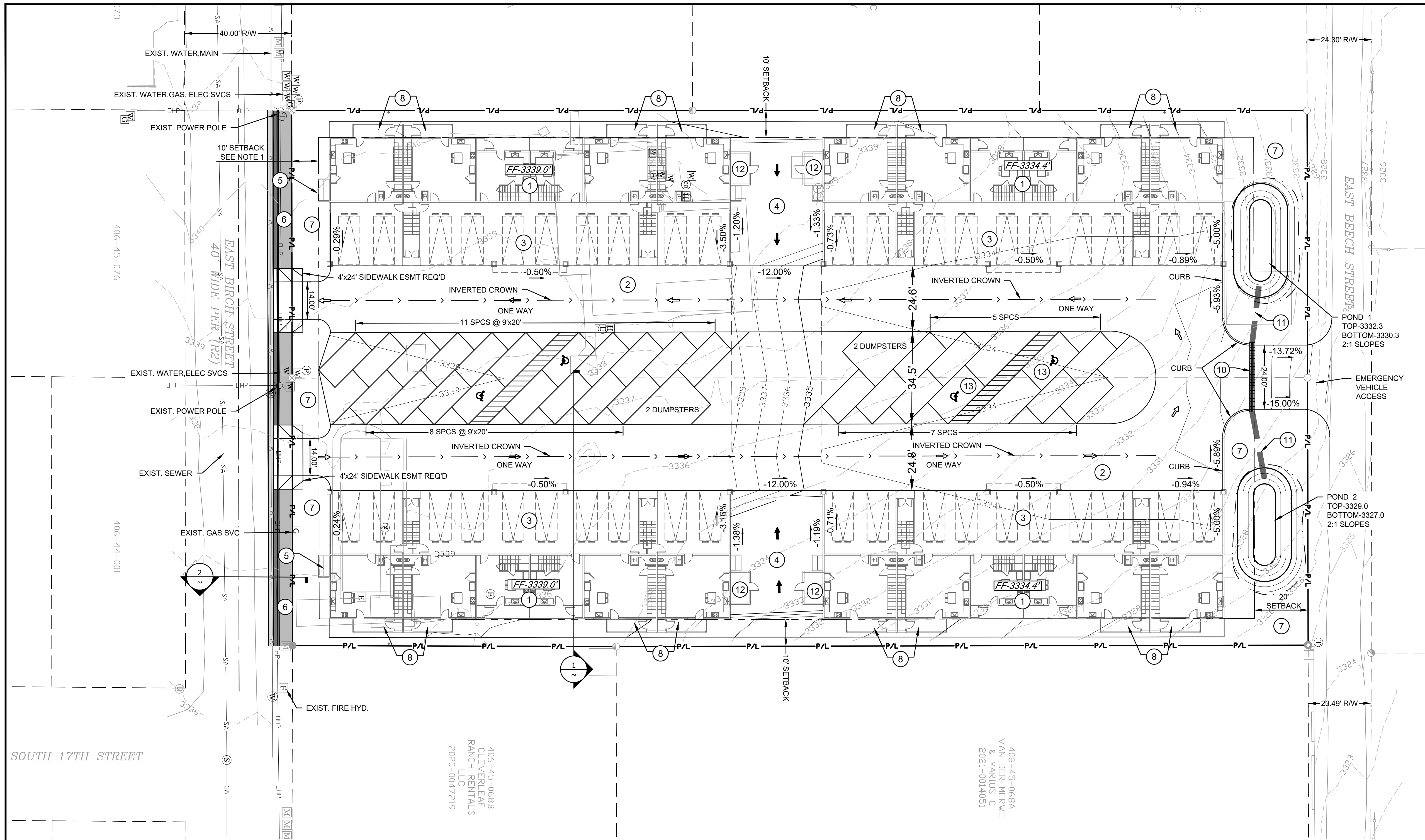
VILLAGE ON BIRCH
GP 22-004



-  Proposed Land Use Change to HR
-  Land Use Boundary

VILLAGE ON BIRCH ZONE CHANGE Z 22-009

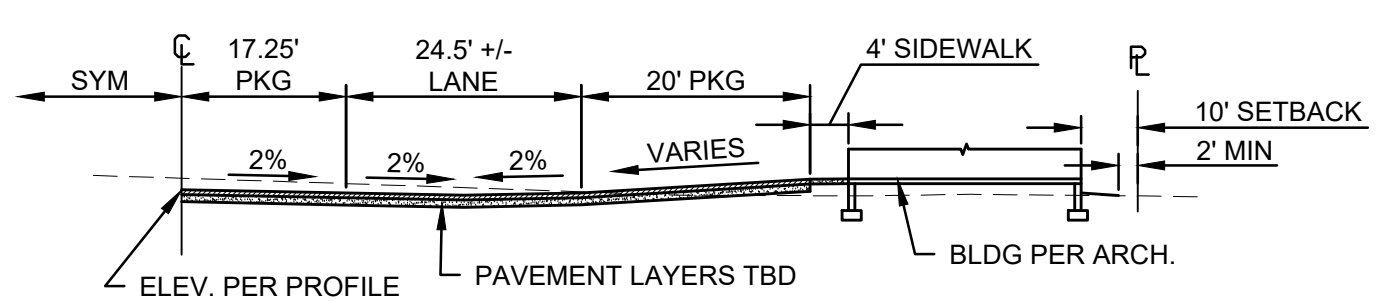




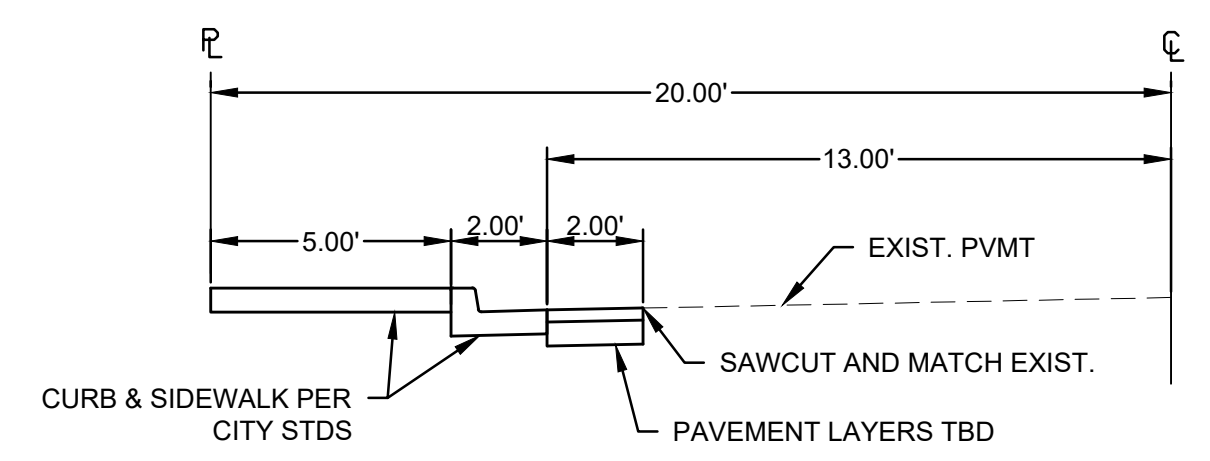
CALL OUTS	
1	BLDG PER ARCHITECT. 2 LEVELS. 10 UNITS PER BLDG. LOWER LEVEL FLOOR & ELEV. SHOWN
2	ASPHALT PARKING LOT
3	COVERED APARTMENT PARKING SPCS. 10 EA. PER BLDG.
4	OPEN SPACE
5	COMMUNAL MAIL BOXES
6	NEW CURB AND SIDEWALK PER CITY STANDARDS
7	LANDSCAPE AREA PER ARCHITECT
8	COVERED PATIO PER ARCHITECT
9	DENTION POND. FIRST FLUSH. SIZE TBD
10	GRATED TRENCH. SPECS TBD
11	CULVERT. SPECS TBD
12	FIRE SPRINKLER ROOM PER ARCHITECT
13	11' ADA PARKING SPACE

NOTES
1. THE FRONT YARD SETBACK IS 20' PER ZONE AR-20. THE FRONT YARD SETBACK WILL BE 10' AFTER A PROPOSED ZONING CHANGE TO R-3

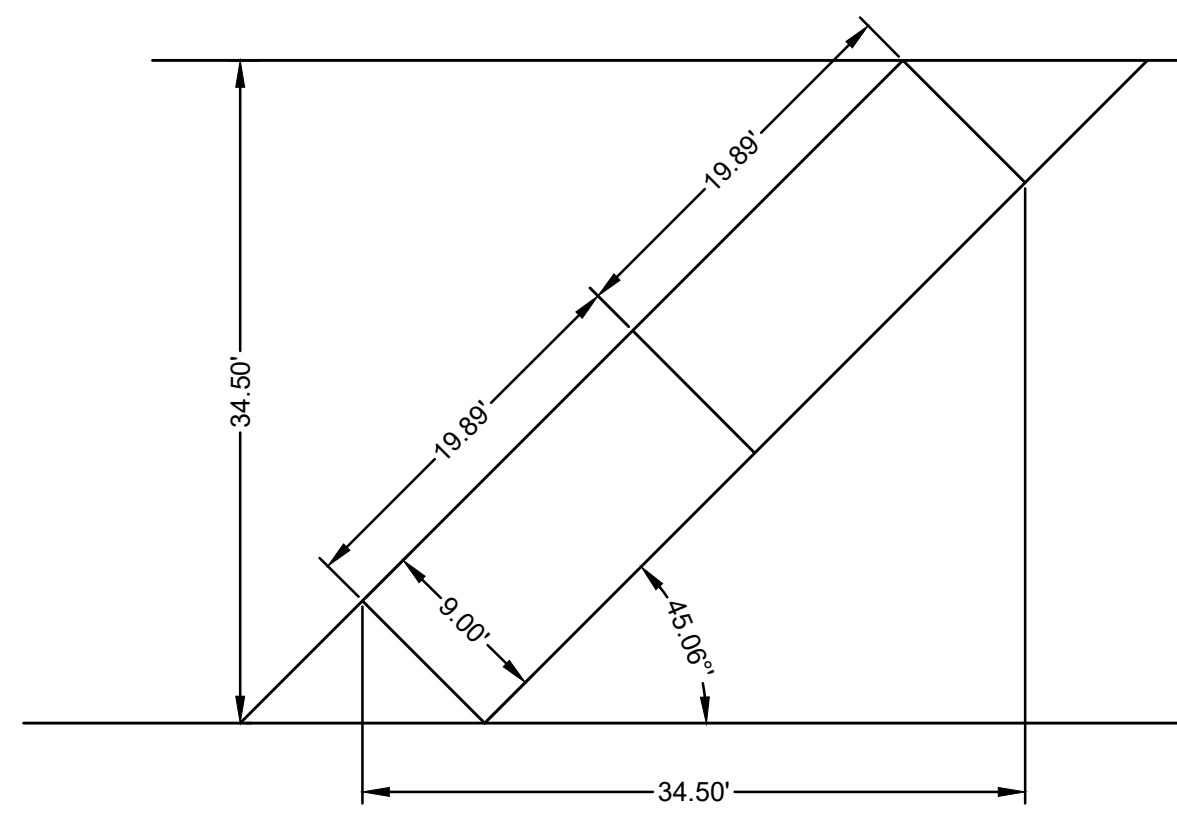
ABBREVIATIONS	
XX.X	SPOT ELEVATION RELATIVE TO ELEV. 3300
LF	LINEAR FEET
BS	BOTTOM OF STEP
TS	TOP OF STEP
T.O.P.	TOP OF PIPE
MAG	MARICOPA ASSOCIATION OF GOVERNMENTS
MSD	MARICOPA ASSOCIATION OF GOVERNMENTS STANDARD DETAIL
MUTCD	MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES
FF	FINISHED FLOOR ELEVATION
EG	EXISTING GRADE
FG	FINISHED GRADE
TW	TOP OF WALL AT FACE
BW	BOTTOM OF WALL AT FACE
INV	INVERT
FL	FLOW LINE
ADA	AMERICANS WITH DISABILITIES ACT
ARV	AIR RELEASE VALVE
BOV	BLOW-OFF VALVE
PVI	POINT OF VERTICAL INTERSECTION
DIP	DUCTILE IRON PIPE
PVC	POLY VINYL CHLORIDE
EP OR EOP	EDGE OF PAVEMENT
SEC	SOUTHWESTERN ENVIRONMENTAL CONSULTANTS, INC
STA	STATION
TBD	TO BE DETERMINED
VC	VERTICAL CURVE
NTS	NOT TO SCALE
SF	SQUARE FEET
EL OR ELEV	ELEVATION
GRD BRK	GRADE BREAK
CP	SURVEY CONTROL POINT
SW	SIDEWALK
CY	CUBIC YARDS
AWC-SD	ARIZONA WATER COMPANY STANDARD DETAIL



1 TYPICAL PARKING SECTION 1/2 SECTION



2 TYPICAL SIDEWALK SECTION BIRCH ST

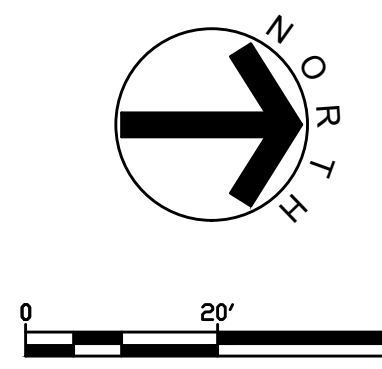


3 TYPICAL PARKING STALLS

LEGEND	
PROPOSED DEVELOPMENT	
	CENTER LINE/BASE LINE
	RIP RAP
	ASPHALT
	CONCRETE
	PAVER
	CURB & GUTTER
	SIDEWALK
	CULVERT
	DRAINAGE FLOWLINE
	BUILDING FOOTPRINT
	RETAINING WALL
	SIGNS
	DRAINAGE FLOW DIRECTION
	LIGHT POLE

- ① INDICATES 1" PVC RISER
- ④ INDICATES 4" PVC RISER
- Ⓢ INDICATES BOLLARD
- ⓪ INDICATES SIGN
- Ⓜ INDICATES MAILBOX
- ⓕ INDICATES FIRE HYDRANT
- Ⓟ INDICATES BACKFLOW PREVENTER
- ⓗ INDICATES HOSE BIB
- Ⓦ INDICATES WATER VALVE
- Ⓢ INDICATES WATER BOX
- Ⓣ INDICATES TELEPHONE / CABLE RISER
- Ⓜ INDICATES GAS METER
- Ⓢ INDICATES GAS SERVICE
- Ⓢ INDICATES SEWER MANHOLE
- Ⓢ INDICATES CLEANDUT
- Ⓢ INDICATES UTILITY POLE
- Ⓢ INDICATES ELECTRIC OUTLET
- Ⓢ INDICATES ELECTRIC METER
- Ⓢ INDICATES DOWN GUY WIRE

	INDICATES OVERHEAD POWER LINE
	INDICATES CONCRETE
	INDICATES CHAIN LINK FENCE
	INDICATES BARBED WIRE FENCE



PRELIMINARY, NOT FOR CONSTRUCTION, FOR AGENCY REVIEW ONLY
SEE GENERAL PLAN NOTE 3.1 PRIOR TO CONSTRUCTION

VILLAGE AT BIRCH
GRADING AND DRAINAGE PLANS-PRELIMINARY

825 COVE PARKWAY
COTTONWOOD, AZ 86326
928-282-7787

SITE MAP		
DATE 9/14/22	DRAWN NMW	SHEET --- OF XX
SCALE AS SHOWN	CHECKED KG	PROJECT NO. 22-0207CS

VILLAGE OF BIRCH

SIGN IN SHEET THANK YOU

NO.	NAME	PHONE	EMAIL	RESIDENT OR BUSINESS	DATE	COMMENTS
4	Lisa Sanchez	928-821-0081	lisa.sanchez1969@hotmail.com		8-20-22	
	Guadalupe L Perez	928-821-9857			8-20-22	
	MCupd/Mae	928-308-0155	mkester77@gmail.com		8/20/22	
	Jim Powers	602-550-8678	jpowers@CRPSAZ.com		8/20/2022	
	Jeff Jensen	602-530-2674	jjensen@crpsaz.com		8/20/22	
	Michael McCrory	602-689-0455	mikao3yconstruction.com		8/20/22	
	MICHAEL MANONE	602-451-9772	MIKEMANONE1@GMAIL.COM		8-20-22	
	Krishan Ginige	928-202-6310	kginige@sec-landngt.com			
	Amy Breen	928-629-3035	Both abreeton@gmail.com		8/20/22	Safety + traffic concerns
	Reggie Breen	928-284-8733	Both reggiebreen@gmail.com			TRAFFIC concerns
	Marlene Cosand	928-978-6142	marlenecosand@gmail.com			
	STAN KINTOWSKI	760-851-1751				

List of attendees. Of this list, only 5 were property owners from surrounding properties. The other attendees have vested interest in the proposed project.

ORGANIZATION

TIME

EVENT DATE

LOCATION

Questions?

Summary of remarks made by attendees

The neighborhood meeting went with overall positive remarks.:

1. They liked the design and the various units sizes.
2. More parking provided than is required.
3. They had concerns of traffic flow coming out of the Heritage school.
4. They like the fact that it will no longer be a vacant lot on a portion of the property and there would no longer have the trailer.
5. They voiced desire to have a better crosswalk on the corner of Mingus.
6. They appreciated that we were not the development coming in making housing just for Sedona Hotel employees. Or short term rentals
7. Each unit will be self contained with private porches and balconies. Well lit for security (dark sky compliant).
8. Mature landscape areas.
9. Enclosed/screened areas for trash enclosures.
10. 6' privacy fence along the perimeter of the property - Metal posts with wood slats.

ORDINANCE NUMBER 725

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR CERTAIN PARCELS OF LAND (SPECIFICALLY, YAVAPAI COUNTY APN'S 406-45-066 & 406-45-067) SO AS TO CHANGE THE PRESENT ZONING DESIGNATION OF AR-43 (AGRICULTURAL RESIDENTIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL).

WHEREAS, at a public meeting held on October 17, 2022, the Planning & Zoning Commission unanimously voted in support of a proposal to rezone certain land located at 1642 and 1644 East Birch Street (APN'S 406-45-066 & 406-45-067), to allow for the rezoning of the parcels; and

WHEREAS, the requirements of A.R.S. § 9-462.04 have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the following described parcels of land, APN'S 406-45-066 and 406-45-067, lying within the City of Cottonwood, Yavapai County, Arizona, shall be and are hereby reclassified from AR-43 (Agricultural Residential), to R-3 (Multiple Family Residential).

Legal Descriptions

Parcel I: APN 406-45-066

That part of the Southwest quarter of the Southwest quarter of Section 35, Township 16 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Section;

Thence North 510 feet to a point on the West line of said Section;

Thence East 367.5 feet to the TRUE POINT OF BEGINNING;

Ordinance Number 725
Page 2

Thence North 379.75 feet;

Thence East 100 feet;

Thence South 379.75 feet;

Thence West 100 feet to the TRUE POINT OF BEGINNING.

Parcel II: APN 406-45-067

That part of the Southwest quarter of the Southwest quarter of Section 35, Township 16 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Section;

Thence North 510 feet to a point on the West line of said Section;

Thence East 467.5 feet to the TRUE POINT OF BEGINNING;

Thence North 379.75 feet;

Thence East 100 feet;

Thence South 379.75 feet;

Thence West 100 feet to the TRUE POINT OF BEGINNING.

Section 2: That at least three (3) copies of the zoning map of the City of Cottonwood, Arizona, as hereby amended be kept in the office of the City Clerk for public use and inspection.

Section 3: Severability: That if any section, subsection, sentence, clause, phrase or portion of this ordinance adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions thereof.

Ordinance Number 725
Page 3

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE
MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, THIS ____ DAY OF
DECEMBER 2022.

Tim Elinski, Mayor

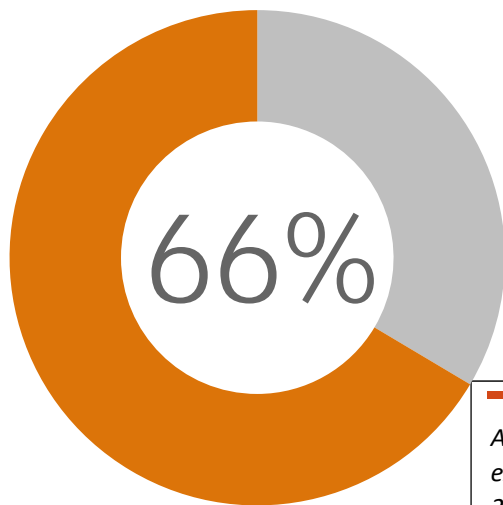
APPROVED AS TO FORM:

ATTEST:

Steve Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk

Percentage of Revenue Spent



Current Fiscal Year Fund Balance/Carry Over (Revenue over Expenditures)

General Fund	777,083
Library	(51,241)
Airport	1,830
Streets - H.U.R.F.	142,473
Grant Fund	(10,794)
Transit - CAT & LYNX	44,784
Debt Service Fund	33
Capital Improvement Fund	30,619
Other Funds	(36,991)
Total GF & Non-Major	\$ 897,795
Water Utility	323,439
Wastewater Utility	186,823
Total Enterprise Funds	510,262
Total All Funds	\$ 1,408,057

Summary

TOTAL REVENUE - ALL FUNDS

\$4,198,876

TOTAL EXPENSES - ALL FUNDS

\$2,790,819

FUND BALANCE/CARRYOVER - ALL FUNDS

\$1,408,057

Budget

TOTAL REVENUE - ALL FUNDS

\$139,423,660

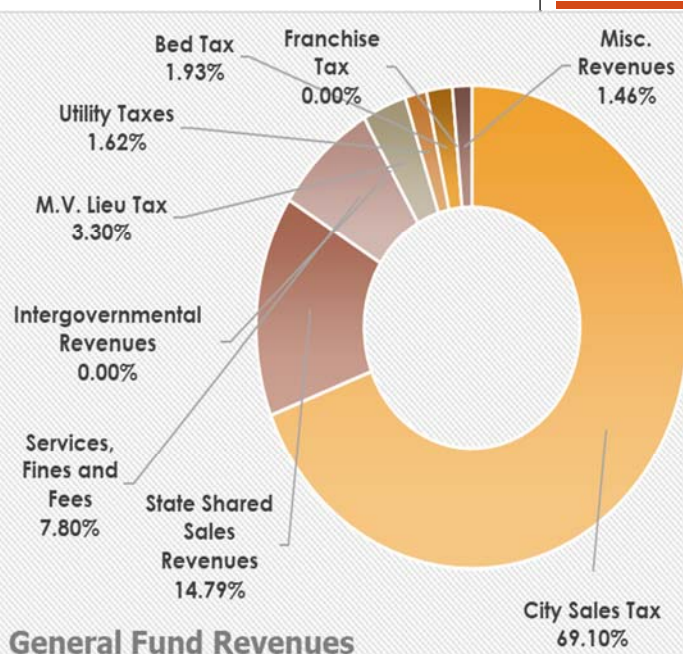
TOTAL EXPENSES - ALL FUNDS

\$139,423,660

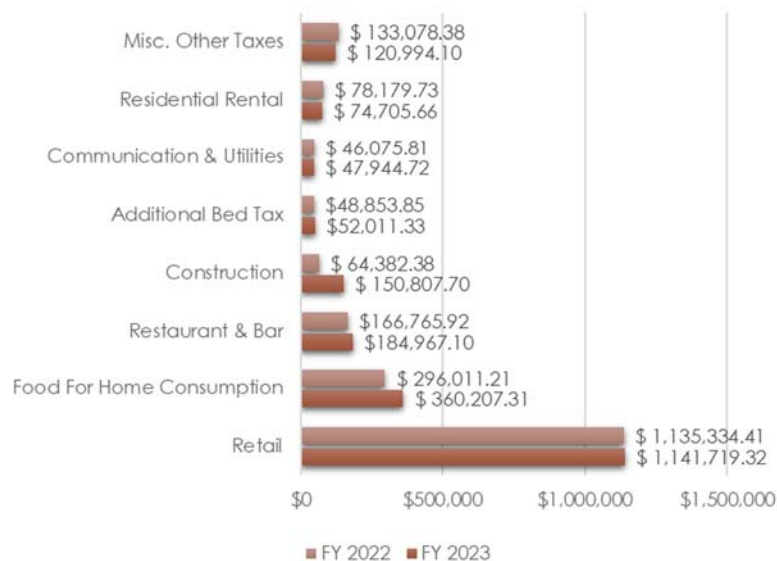
% Expensed of Budget

2.00%

As of the end of July 2022, the City's overall revenues exceeded expenses and the City had only expended 2% of the total FY 2023 Adopted budget. Total Sales tax collections for the end of FY 2022 were up by 12% over FY 2021 and were on target for maintaining the budgeted reserves for FY 2023.. The first month of FY 2023 is trending in a positive direction with sales tax being 7% over the same period of FY 2022. The economy is strong despite the current inflation rates, increasing interest rates and the forecasting of a possible recession on the horizon. The TPT tax makes up approximately 69% of the revenues received in the General fund and over 56% of the total revenues collected for all funds in July. The current fund balance carryover accumulated in the first month of FY 2023 is a total of \$1.4M, as is shown in the chart to the left. Some of the Special Revenue funds balances are negative and will need the general fund to support the shortages during the year. The Water & Wastewater Utilities are both showing increases in carryover partially due to projects that have not been started yet in FY 2023. The graph below shows TPT tax by major category comparing July of FY 2022 to July of FY 2023. All categories have increased with construction and food for home consumption showing the largest increases. Construction is not always a good indicator of the current economy as construction projects are typically just for a short period of time and once completed that revenue source is gone. Food for home consumption is showing an increase due to inflation and the costs of goods rising. Overall tax revenues are trending in a good direction and are on target.



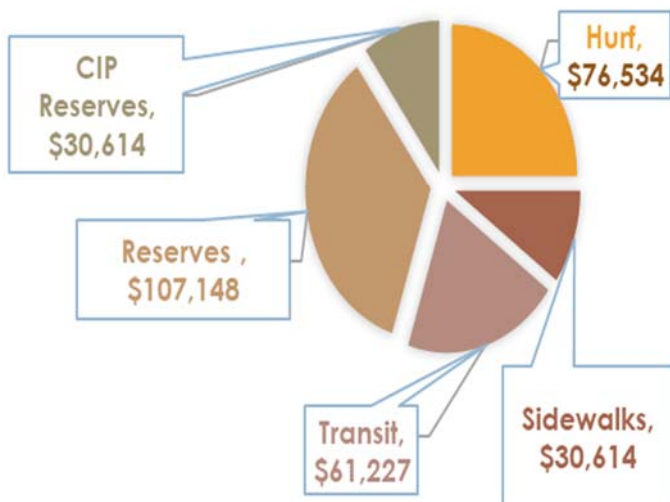
July TPT Tax by Category



ACTUAL vs. BUDGETED EXPENDITURES

FUND	Account Title	Actual	Budget - W/Out Carryover/Fund Balance	Remaining \$ *	Remaining % Goal - 91.7%
01	General Fund	\$ 1,578,421	\$ 32,630,545	\$ 31,052,124	95.2%
03	Library	55,650	1,328,220	1,272,570	95.8%
05	Airport	52,682	379,680	326,998	86.1%
10	HURF - Department	67,432	1,935,280	1,867,848	96.5%
10	HURF - Construction	87,860	3,347,615	3,259,755	97.4%
15	Transit	126,465	3,762,350	3,635,885	96.6%
20	Debt Service	137,227	1,650,930	1,513,703	91.7%
50	Water	411,288	12,901,995	12,490,707	96.8%
51	Wastewater	222,850	14,644,940	14,422,090	98.5%
	Combined - Non Major Funds	50,944	20,124,100	20,073,156	99.7%
Total		\$2,790,819	\$92,705,655	\$89,914,836	96.99%

*Graph depicts the scale of remaining balances

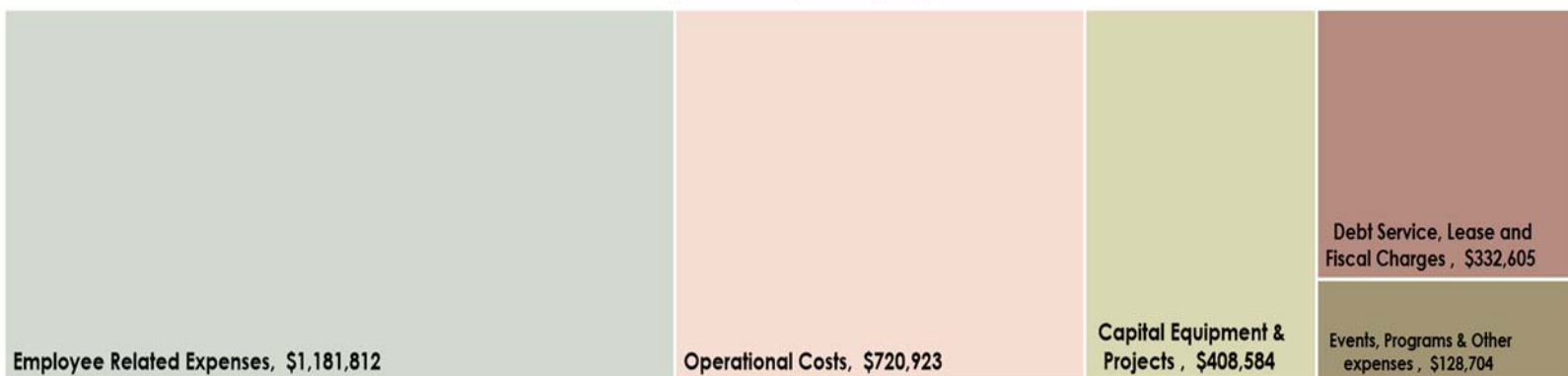
SALES TAX RESERVES ADDED
FY2023

At the end of the first month of FY 2023 all expenses are trending under where we would expect to see them except the Debt Service Fund. The Debt Service fund is a monthly charge that is calculated based on the annual total and will be always be on track. In the chart above you can see the percentage and dollars of remaining budget of each fund. By the end of July we would anticipate that most departments would have expended 8.3% of their budget. The actual vs. budgeted expenditures overall hit the mark since there is 96.99% remaining of the total budget and we would anticipate the remaining percentage to be 91.7%.

Salaries and benefits made up 42% of the City's expenses at a total of \$1.1M at the end of the July. The percentage is lower than in the past due to fully funding the Public Safety Personnel Retirement System for Police and Fire, decreasing the monthly pension contributions. The budget for FY 2023 has 231 full time employees budgeted and on average pays 250 to 280 people, some part-time.

The 0.5% Sales Tax increase adopted in FY 2019 was allocated to various reserves and to help fund HURF (streets), Sidewalks and Transit. For fiscal year 2023 the City has allocated this increase to CIP, Streets, Transit and Reserves. The chart on the left shows the allocation for July. These allocations will be used to fund future capital projects and support for these departments.

Expenses By Category



City of Cottonwood, Arizona
City Council Agenda Communication



 Print

Meeting Date:	December 6, 2022
Subject:	New Liquor License Application (012 Restaurant) for Golden Dragon Restaurant.
Department:	City Clerk
From:	Marianne Jiménez, City Clerk

REQUESTED ACTION

Council consideration of recommending approval or denial of a new Liquor License Application submitted by Maria Elena Rodriguez, applicant for the Golden Dragon restaurant located at 1675 E. Cottonwood Street.

SUGGESTED MOTION

"I move to recommend approval of the new Liquor License Application submitted by Maria Elena Rodriguez, applicant for the Golden Dragon restaurant located at 1675 E. Cottonwood Street."

BACKGROUND

A new Liquor License Application (012 Restaurant) was received from the Arizona Department of Liquor Licenses & Control for Maria Elena Rodriguez, applicant for the Golden Dragon restaurant located at 1675 E. Cottonwood Street.

The liquor license application notice has been posted for the required 20 day period, and no comments for or against the application have been received.

JUSTIFICATION/BENEFITS/ISSUES

All Liquor License applications that are submitted to the Arizona Department of Liquor Licenses & Control (ADLLC) for establishments located within the City of Cottonwood are presented to the Council for its recommendation of approval or denial of the application. The Council's recommendation is taken into consideration by the ADLLC prior to their final approval of the application.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:

File Name	Description	Type
12-6-22_Golden_Dragon_LLA.pdf	Golden Dragon LLA	Backup Material

Cottonwood
215535

State of Arizona
Department of Liquor Licenses and Control

Created 11/03/2022 @ 11:01:36 AM

Local Governing Body Report

LICENSE

Number: Type: 012 RESTAURANT
Name: GOLDEN DRAGON COTTONWOOD RESTAURANT
State: Pending
Issue Date: Expiration Date:
Original Issue Date:
Location: 1675 E COTTONWOOD STREET
COTTONWOOD, AZ 86326
USA
Mailing Address: 1675 E COTTONWOOD STREET
COTTONWOOD, AZ 86326
USA
Phone: (928)634-0588
Alt. Phone:
Email: GOLDENDRAGONCOTTONWOOD03@GMAIL.COM

AGENT

Name: MARIA ELENA RODRIGUEZ
Gender: Male
Correspondence Address: 1675 E COTTONWOOD STREET
COTTONWOOD, AZ 86326
USA
Phone: (928)634-0588
Alt. Phone:
Email: GODENDRAGONCOTTONWOOD03@GMAIL.COM

OWNER

Name: GOLDEN DRAGON COTTONWOOD RESTAURANT, LLC
Contact Name: MARIA ELENA RODRIGUEZ
Type: LIMITED LIABILITY COMPANY
AZ CC File Number: 23373867 State of Incorporation: AZ
Incorporation Date:
Correspondence Address: 1675 E COTTONWOOD STREET
COTTONWOOD, AZ 86326
USA
Phone: (928)634-0588
Alt. Phone:
Email: GOLDENDRAGONCOTTONWOOD03@GMAIL.COM

Officers / Stockholders

Name:	Title:	% Interest:
EDUARDO SALAS RUIZ	MEMBER	25.00
CLAUDIA RODRIGUEZ	MEMBER	25.00
JUAN CARLOS PICAZO RODRIGUEZ	MEMBER	25.00
MARIA ELENA RODRIGUEZ	OWNER	25.00

GOLDEN DRAGON COTTONWOOD RESTAURANT, LLC - OWNER

Name: MARIA ELENA RODRIGUEZ
 Gender: Female
 Correspondence Address: 1675 E COTTONWOOD STREET
 COTTONWOOD, AZ 86326
 USA
 Phone: (928)634-0588
 Alt. Phone:
 Email: GOLDENDRAGONCOTTONWOOD03@GMAIL.COM

GOLDEN DRAGON COTTONWOOD RESTAURANT, LLC - MEMBER

Name: CLAUDIA RODRIGUEZ
 Gender: Female
 Correspondence Address: 1675 E COTTONWOOD STREET
 COTTONWOOD, AZ 86326
 USA
 Phone: (928)634-0588
 Alt. Phone:
 Email: GOLDENDRAGONCOTTONWOOD03@GMAIL.COM

GOLDEN DRAGON COTTONWOOD RESTAURANT, LLC - MEMBER

Name: EDUARDO SALAS RUIZ
 Gender: Male
 Correspondence Address: 1675 E COTTONWOOD STREET
 COTTONWOOD, AZ 86326
 USA
 Phone: (928)634-0588
 Alt. Phone:
 Email: GOLDENDRAGONCOTTONWOOD03@GMAIL.COM

GOLDEN DRAGON COTTONWOOD RESTAURANT, LLC - MEMBER

Name: JUAN CARLOS PICAZO RODRIGUEZ
 Gender: Male
 Correspondence Address: 1675 E COTTONWOOD STREET
 COTTONWOOD, AZ 86326
 USA
 Phone: (928)634-0588
 Alt. Phone:
 Email: GOLDENDRAGONCOTTONWOOD03@GMAIL.COM

APPLICATION INFORMATION

Application Number: 215535
Application Type: New Application *TA*
Created Date: 11/02/2022

QUESTIONS & ANSWERS

012 Restaurant

- 1) Are you applying for an Interim Permit (INP)?
Yes
A Document of type INTERIM PERMIT (INP) NOTARY PAGE is required.
- 2) Are you one of the following? Please indicate below.
Property Tenant
Subtenant
Property Owner
Property Purchaser
Property Management Company
SUBTENANT
- 3) Is there a penalty if lease is not fulfilled?
No
- 4) Is the Business located within the incorporated limits of the city or town of which it is located?
Yes
- 5) What is the total money borrowed for the business not including the lease?
Please list each amount owed to lenders/individuals.
NONE
- 6) Are there walk-up or drive-through windows on the premises?
No
- 7) Does the establishment have a patio?
No
- 8) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?
No
- 9) What type of business will this license be used for?
RESTAURANT

City of Cottonwood, Arizona
City Council Agenda Communication



 Print

Meeting	December 6, 2022
Date:	
Subject:	Public Safety Radio Communications Tower Lease Agreement
Department:	Police
From:	Steve Gesell, Chief of Police

REQUESTED ACTION

Authorization to enter into a lease agreement for a portion of Yavapai County Parcel #406-45-036D for the placement of a public safety radio communications tower.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to authorize the City to enter into a lease agreement for a portion of Yavapai County Parcel #406-45-036D for the placement of a public safety radio communications tower, subject to approval of the final form of lease by the City Attorney."

BACKGROUND

Yavapai County APN 406-45-036D, sometimes referred to as Duncan/Dentist Hill, previously served as a public safety communications tower location for approximately 6 years, from 2012 until 2018. In 2018, the tower was moved from the property to AZ State Parks Land. However, this lower location is unable to adequately support radio communications at the same level. This is most noticeable along the Main Street corridor, and adjacent to the Verde River. As part of the assessment and troubleshooting of this issue, we have been able to log these areas, and a map depicting those locations have been included as a visual reference (see attachment).

The local and regional topography presents challenges to the ability to provide quality radio transmission and reception to field personnel. Elevated equipment must be capable of broadcasting and receiving signals in "line-of-sight" with little to no interference from buildings, hills, saddles, mountains, trees, and other obstacles, including changes in atmospheric conditions. Elevation and location are critical to the mitigation of

interference from the factors listed above.

JUSTIFICATION/BENEFITS/ISSUES

City staff, in consultation with our contracted radio technician, believe the proposed receiver site will improve the quality of public safety communications.

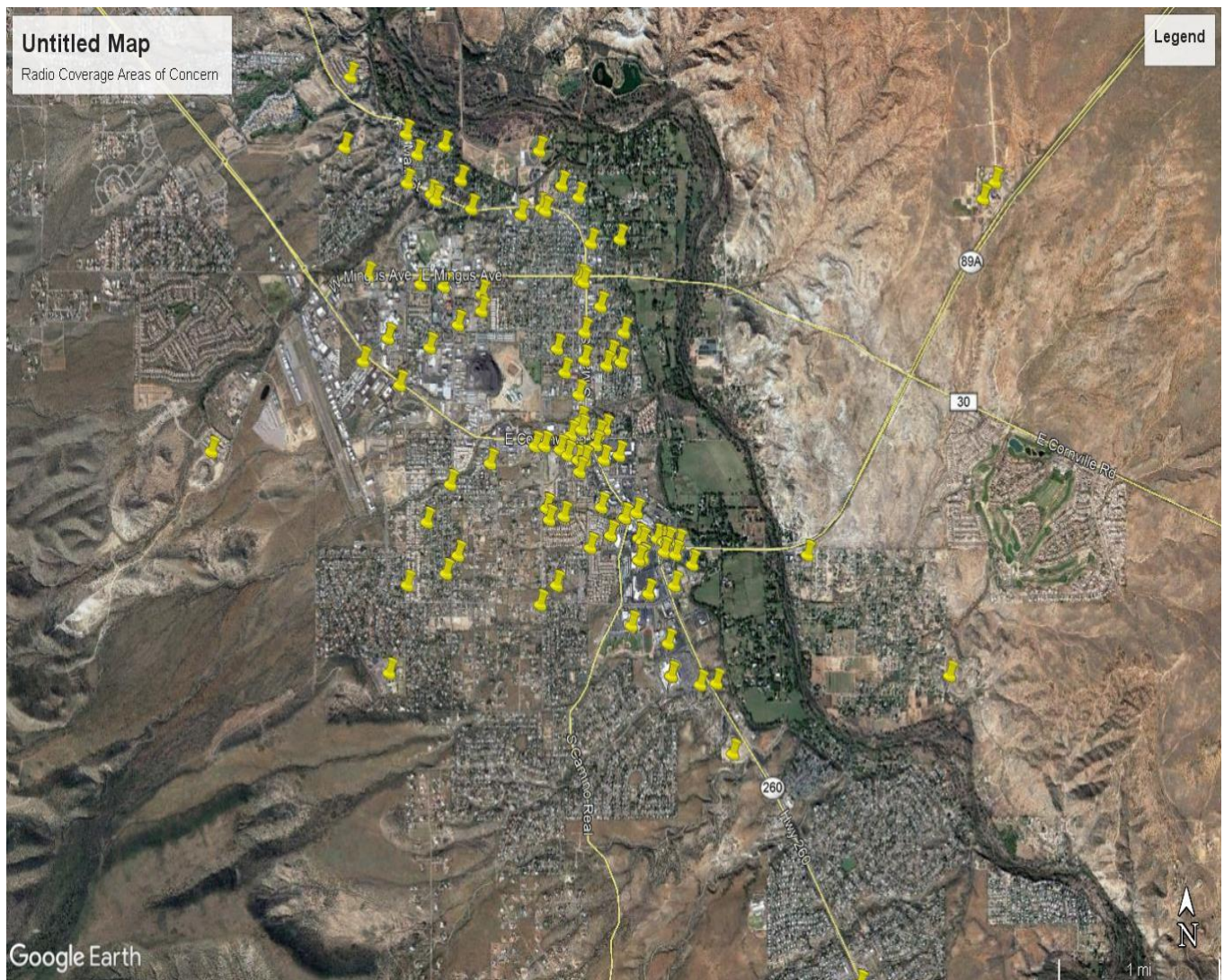
This location would accomplish a number of short and long-term objectives for our system. First, it will improve our radio coverage where we are currently deficient. The location and elevation of this site will also be beneficial in securing quality radio coverage at the recently annexed Spring Creek Ranch area and the 89 & Vine planned development. Finally, it would provide redundancy in our system when other receiver sites fail, or need repair. Staff will continually assess the merits of this site, as we do with others for the effectiveness, and efficiency of operations.

COST/FUNDING SOURCE

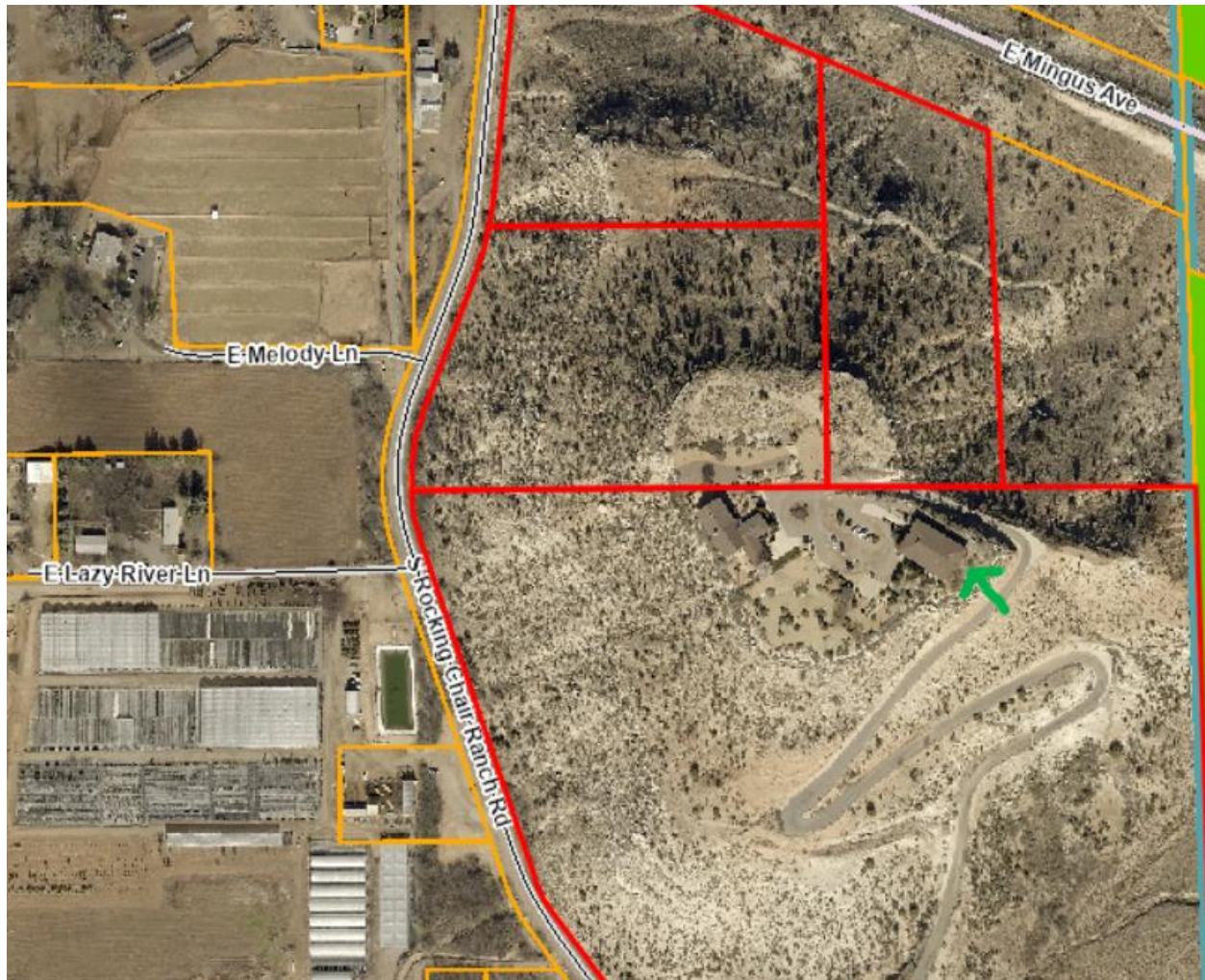
The proposed lease agreement would initially cost \$1,100/month, with annual increases of 2.5% per year for the duration of the 20-year lease agreement. The associated radio tower equipment will be covered from budgeted IT capital funds.

ATTACHMENTS:

File Name	Description	Type
Radio_Problem_locations.docx	Radio Problem Locations	Cover Memo
Proposed_Communication_Tower_Site_Location.docx	Proposed Communication Tower Site Location	Cover Memo



****Radio Problem locations found after previous communication tower was removed from Duncan Hill****



Proposed location is on the southeast location of east structure

City of Cottonwood, Arizona
City Council Agenda Communication



 [Print](#)

Meeting Date:	December 6, 2022
Subject:	Authorization of the Mayor to execute a deed transferring of a portion of City Cemetery land to Susan Masters.
Department:	Community Development
From:	Gary Davis, Senior Planner

REQUESTED ACTION

Authorize the Mayor to execute a deed transferring the north 26 feet of the City Cemetery land, APN 406-37-174, to Susan Masters.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to authorize the Mayor to execute a deed transferring approximately the north 26 feet of the City Cemetery land, APN 406-36-174, to Susan Masters, subject to approval of the form of deed by the City Attorney."

BACKGROUND

On May 17, 2022, Council approved the concept of exchanging a portion of cemetery land for a pedestrian and utility easement at the north end of 14th Street. A previous owner of the property at 902 N. 14th Street had built a fence encroaching on the north end of the cemetery by about 26 feet. The current owner, Susan Masters, wishes to have that portion of the cemetery land transferred to her, and in exchange she will dedicate a 20-foot wide pedestrian and utility easement to the City, where a trail could one day be located to connect the north end of 14th Street with Riverfront Park.

A zone change was necessary in order for the owner to divide her lot and dedicate the easement. Council approved that zone change by Ordinance 722 on October 18, 2022. Staff intends to simultaneously record the signed deed and the Minor Land Division that will divide the owner's lot and dedicate the easement.

JUSTIFICATION/BENEFITS/ISSUES

The City will gain a new access point to Riverfront Park from the Scott Addition

neighborhood, in exchange for an unused portion of the City's cemetery parcel.

COST/FUNDING SOURCE

Expenses include cost of preparing the Minor Land Division that will separate the north 26 feet of the cemetery parcel, and recordation fees. Construction of the trail, including a bridge across Cottonwood ditch, would be budgeted in the future.

ATTACHMENTS:

File Name	Description	Type
-----------	-------------	------

No Attachments Available

City of Cottonwood, Arizona
City Council Agenda Communication



 [Print](#)

Meeting Date:	December 6, 2022
Subject:	Fabrication, Installation and Testing of Wellhead and Downhole Multi-Port Injection System for the Mingus WWTP Injection Well.
Department:	Utility Services
From:	Thomas Whitmer, Utilities Director

REQUESTED ACTION

Approve contract with KP Ventures for the fabrication, installation and testing of the wellhead and downhole multi-port injection system for the Mingus WWTP injection well.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

I move to approve a contract with KP Ventures for the fabrication, installation, start-up and testing of a wellhead and downhole multi-port injection system for the Mingus wastewater treatment plant injection well for an amount not to exceed \$163,600.

BACKGROUND

The proposed injection well at the Mingus Wastewater Treatment Plant is now fully permitted and ready to be designed, fabricated and installed. The next steps in this process are fabrication, installation and testing of a wellhead and downhole multi-port injection system (which has already been engineered and designed); followed by the engineering, design and installation of the associated piping and electrical panels. On October 16, 2022, A Notice of Formal Solicitation for the completion of the injection system was issued with a due date of November 14, 2022. The only party submitting a bid to perform this work was KP Ventures Well Drilling and Pump Company LLC. (KP Ventures). Staff has determined that this bid meets all of the necessary requirements necessary for award of a contract for the fabrication, installation and testing of the injection system.

JUSTIFICATION/BENEFITS/ISSUES

In order to begin recharging reclaimed water at the Mingus injection well, the wellhead and downhole multi-port injection system must be fabricated, installed and tested. The benefits of injecting reclaimed water is two-fold: 1) recharging reclaimed water reduces the depletion of the aquifer, which increases the sustainability of the regional aquifer system, while minimizing potential impacts to the Verde River; and 2) allows the City to begin obtaining recharge credits, which can be used to maintain and/or increase pumping capacities, even if the adjudication court places a cap on our current pumping capabilities.

COST/FUNDING SOURCE

The initial funding will be the Water Supply Development Fund, but is 100 percent reimbursable by our CAP Trust Fund.

ATTACHMENTS:

File Name	Description	Type
12-6-22_KP_Ventures.pdf	KP Ventures Bid	Backup Material
12-6-22_KP_Ventures_Well_Drilling__Pump_CO._LLC._Contract.pdf	KP Ventures Contract	Backup Material



WELL DRILLING & PUMP CO LLC

KPVENTURESWELLDRIILLING.COM

PO Box 2411, Cottonwood, AZ 86326

RE: City of Cottonwood – FY23-UT-01

To Whom It May Concern:

Our firm is very interested in this project. We feel we have the necessary equipment, experience, and personnel to complete the project per the specifications. We do have some clarifications regarding our proposal. Our pricing does not include any of the permanent power sources, trenching, conduit, wiring required to power the installed equipment. It does include the final terminations and hook up of the equipment. Our pricing does not include any Booster Pump, SCADA, or Storage Tank. Some items have a lead time as much as 24 weeks. The current layout for the injection tubing will not physically fit in the well; this will need to be modified for the final design. The 2-1/2" SCH80 PVC may not be properly rated to hold the submersible pump, sub-cable, and injection piping. The submersible pump in the specifications may not physically fit in the well with the other piping. Our pricing does not include any Engineer Certified drawings or plans. We can provide for additional fees. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Johnson', is written over a light blue horizontal line.

Tyler Johnson

COO

Cell – 928-301-1128

Office – 928-639-1709

Email – TylerJ@kpvent.com

EXHIBIT B
BID SECTION

(Including all information required to be submitted with Bid)

Item No.	Assemble and Install an Injection System	Unit	Quantity	Cost	Total
1	Equipment	LS	1	\$96,000.00	\$96,000.00
2	Materials	LS	1	\$33,300.00	\$33,300.00
3	Mobilization and Demobilization	LS	1	\$4,000.00	\$4,000.00
4	Injection System Assembly Layout	LS	1	\$10,000.00	\$10,000.00
5	Start-Up and Operational Testing	HR	24	\$200.00	\$4,800.00
6	Wall Site Security	LS	1	\$1,500.00	\$1,500.00
7	Optional Services	HR	16	\$200.00	\$3,200.00
8	Allowance Items	EA	1	N/A	N/A

SALES TAX \$10,772.40 GRAND TOTAL: \$163,572.40



Proposal

Date	Proposal #
11/10/2022	10672

Mailing - PO Box 2411
Cottonwood, AZ 86326

Corporate Satellite
4715 Old Highway 279 5120 W. Bethany Home Rd.
Camp Verde, AZ 86322 Glendale, AZ 85301

Name / Address

City of Cottonwood Utilities Department
111 North Main Street
Cottonwood, AZ 86326

Description	Qty	Cost	Total
FY23-UT-01			
Assemble and Install an Injection System			
Equipment	1	96,000.00	96,000.00T
Materials	1	33,300.00	33,300.00T
Mobilization and Demobilization	1	4,000.00	4,000.00T
Injection System Assembly Layout	1	10,000.00	10,000.00T
Start-Up and Operational Testing	24	200.00	4,800.00T
Wall Site Security	1	1,500.00	1,500.00T
Optional Services	16	200.00	3,200.00T
Allowance Items	1	0.00	0.00T

Well prices are per foot. Total depths are estimated and may vary. Construction of the well may require installation of additional casing or liner. Owner shall be advised of any additional costs, if any, before installation. At KP Ventures discretion we reserve the right to nullify contract if we see reasonable and fit. We cannot guarantee water quality or quantity. Minimum drilling fee is for 100 feet. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. Balance due upon completion. 1 1/2% (18% per annum) 10 days from due date. DEPOSIT IS NON-REFUNDABLE. Valid for 30 Days.

Subtotal \$152,800.00

Sales Tax (7.05%) \$10,772.40

Total \$163,572.40

Down payment

<http://kpventureswelldrilling.com/>

ACCEPTANCE OF PROPOSAL----The above prices, specifications and conditions are satisfactory.

Signature _____

Date _____

1. Bidder Information:

Firm Name: KP Ventures Well Drilling & Pump Co. LLC

Contact Name: Tyler Johnson

Principal Address: 4715 Old Highway 279, Camp Verde, AZ 86322

Phone: 928-639-1709

Fax: _____

E-Mail: TylerJ@kpvent.com

Local Address: 4715 Old Highway 279, Camp Verde, AZ 86322

Type of Organization: S-Corp, LLC

Tax ID #: 90-1118078

Arizona "A" License #: A-4,R-53, 249246, 249250

Superintendent's Name: Tyler Johnson, Billy Henson

Field Erection Crew: Frank Williams, Frank Perez, Travis Vinson

2. Exceptions to IFB (§4.5.4 Exceptions to IFB): N/A

3. Disclosure of Debarment Information (§4.5.5 Disclosure): N/A

4. Prices: Please provide bid on your own separate forms per Specifications Contained within IFB. Bids must be inclusive of any and all costs, taxes, fees, delivery, and installation.

5. Delivery Days After Receiving Order (ARO): Currently the longest lead item is 196 days.

6. Options and Alternatives: If Ductile Iron is not available we will use Black Iron,

7. List of Piping materials and coatings in accordance with the specifications (indicate if attached as a separate document): We plan to provide all per the specifications. If Ductile Iron is not available we plan to use Black Iron.

8. References (must be provided)

A. List of five (5) Previously constructed projects similar to the Recharge Injection Well System. Include the name and phone number of owner and/or engineer.

1) Entity: City of Cottonwood

Address: 821 N. Main Street, Cottonwood, AZ 86326

Owner: Roger Biggs - RETIRED

Phone: _____

Engineer: Tom Whitmer

Phone: 602-275-5455

Goods or services supplied and when provided: Fairgrounds Park and Riverfront Injection wells and testing.

2) Entity: City of Sedona

Address: 7500 W State Route 89A, Sedona, AZ 86336

Owner: Roxanne Holland

Phone: 928-203-5069

Engineer: Brad Jeppson

Phone: 208-376-2288

Goods or services supplied and when provided: Injection and POC well drilling, testing, installation, and maintenance.

3) Entity: City of Kingman

Address: 3700 E Andy Devine Ave, Kingman, AZ 86401

Owner: Burley Hambrick

Phone: 928-692-3117

Engineer: Marvin Glotfelty

Phone: 480-659-7131

Goods or services supplied and when provided: Injection well drilling, testing, modification, installation.

4) Entity: City of Chandler

Address: 175 S. Arizona Ave, 3rd Floor, Chandler, AZ 85225

Owner: Trent Williams

Phone: 480-650-1140

Engineer: N/A

Phone: _____

Goods or services supplied and when provided: Injection well maintenance and installation.

5) Entity: N/A
Address: _____
Owner: _____ Phone: _____
Engineer: _____ Phone: _____
Goods or services supplied and when provided: _____

9. Receipt of Addenda:

Bidder acknowledges receipt of the following Solicitation Addendum(s):

<u>Addendum No.</u>	<u>Date</u>
<u>1</u>	<u>11/3/2022</u>
<u>2</u>	<u>11/8/2022</u>
_____	_____

10. Other Information Requested: N/A

11. Intent to be Bound by Bid: _____

(Signature of Individual Authorized to Sign Bid)

Tyler Johnson, COO

(Printed Name of Individual Authorized to Sign Bid)

EXHIBIT E
AFFIDAVIT BY CONTRACTOR
REGARDING RESPONSIBILITY AND COMPLIANCE

All contractors must complete the following questions and have the document notarized. Failure to complete and return this document will result in disqualification. In the event you require more space an additional sheet maybe used to complete the questions.

1. List your company's Arizona Contractors License number and class.

A-4, R-53, 249246, 249250

2. List which of the following your company is qualified for: MBE, SMBE or Small Business.

N/A

3. State the location of your corporate office.

4715 Old Highway 279, Camp Verde, AZ 86322

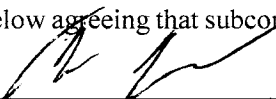
4. List any documented, sited, or under investigation violations of federal or state labor laws, regulations, or standards, OSHA rules.

N/A

5. List any current lawsuits your company is involved in.

N/A

6. Sign below agreeing that subcontractors are NOT permitted to manufacture, coat and erect the tank.



7. List any penalties imposed for time delays and/or quality of materials and workmanship.

N/A

8. List any contracts not completed on time.

N/A

9. Per A.R.S § 41-4401 Offeror hereby certifies compliance with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214 which requires verification of each employee's legal employability, after they are employed, using the "Basic Pilot Program" (also known as E-Verify).

I, Tyler Johnson, as COO
Name of individual Title & Authority

of KP Ventures Well Drilling & Pump Co. LLC, declare under oath that the above statements, including
Company Name

any supplemental responses attached hereto, are true.

By: [Signature]
(Signature of Individual/Representative)

STATE OF: Arizona)
) ss.
COUNTY OF: Yavapai)

On this the 1st day of November, 2022, before me, the undersigned NOTARY PUBLIC,
personally appeared Tyler Johnson, who acknowledged to me that they executed the foregoing
instrument for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

[Signature]
NOTARY PUBLIC
My Commission Expires: 11-15-2022

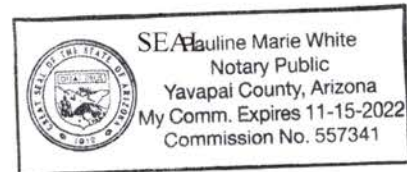
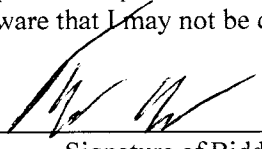


EXHIBIT F
CERTIFICATE OF INSURABILITY

I hereby certify that as a Bidder to City of Cottonwood (City) for Solicitation No. FY23-UT-01, I am fully aware of insurance requirements contained in the Contract and by the submission of this bid. I hereby assure City that I am able to produce the insurance coverage required should I be selected to be awarded the Contract.

Should I be awarded the Contract by City and then become unable to produce the insurance coverage specified within ten (10) working days, I am fully aware and understand that this shall constitute a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract at the sole discretion of the City. I also understand and am fully aware that I may not be considered for further projects by City.



Signature of Bidder

KP Ventures Well Drilling & Pump Co. LLC

Company

11/11/2022

Date

EXHIBIT G
DISCLOSURE OF RESPONSIBILITY STATEMENT

- A. List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
N/A
- B. List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offenses indicating a lack of business integrity or business honesty, which affects the responsibility of the contractor.
N/A
- C. List any convictions or civil judgments under state or federal antitrust statutes.
N/A
- D. List any violations of contract provisions such as failing to perform (without good cause), or unsatisfactory performance, in accordance with the specifications of a contract.
N/A
- E. List any prior suspensions or debarments by any governmental agency.
N/A
- F. List any contracts not completed on time.
N/A
- G. List any penalties imposed for time delays and/or quality of materials and workmanship.
N/A
- H. List any documented violations of federal or state labor laws, regulations, or standards, occupational safety and health rules.
N/A

I, Tyler Johnson, as COO
Name of individual Title & Authority

of KP Ventures Well Drilling & Pump Co. LLC, declare under oath that the above statements, including
Company Name

any supplemental responses attached hereto, are true.

By: [Signature]
(Signature of Individual/Representative)

STATE OF: Arizona)
COUNTY OF: Yavapai) ss.

On this the 11th day of November, 2022, before me, the undersigned NOTARY PUBLIC, personally appeared Tyler Johnson, who acknowledged to me that they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.
Pauline Marie White
NOTARY PUBLIC

My Commission Expires: 11-15-2022
SEAL
Pauline Marie White
Notary Public
Yavapai County, Arizona
My Comm. Expires 11-15-2022
Commission No. 557341

EXHIBIT H
NON-COLLUSION AFFIDAVIT

STATE OF: Arizona)
) ss
CITY OF: Camp Verde)

Tyler Johnson

(Name of Company, Representative)

being first duly sworn, deposes and says:

That she/he is COO of KP Ventures Well Drilling & Pump Co. LLC
(Title) (Name of Company)
and

That pursuant to Section 112 I of Title 23 USC or other applicable laws, he/she certifies as follows:

That neither he/she nor anyone associated with the said

KP Ventures Well Drilling & Pump Co. LLC

(Name of Company)

has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding for the bid for the:

Fabrication, Assembly Installation, and Start-up of one (1) Recharge Injection System at Mingus Waste Water Treatment Plant

This bid is genuine and not made in the interest of or on behalf of any undisclosed firm or corporations and is not submitted to conform to any agreement or rules of any group, association, organization or corporation. Bidder has not submitted a false bid or solicited whether directly or indirectly with any other Bidder to submit a false bid which would give one particular bid any advantage over others or the owner.

By: _____
(Signature of Individual/Representative)

STATE OF: Arizona)
) ss.
COUNTY OF: Yavapai)

On this the 11th day of November, 20 22, before me, the undersigned NOTARY PUBLIC, personally appeared Tyler Johnson, who acknowledged to me that they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Pauline Marie White

NOTARY PUBLIC

My Commission Expires: 11-15-2022

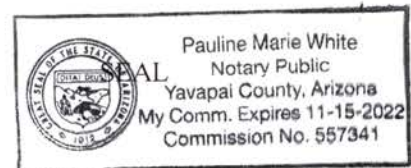


EXHIBIT I
CONTRACTOR IMMIGRATION WARRANTY
(To Be Completed by Contractor Prior to Execution of Contract)

A.R.S. § 41-4401 (Government procurement, E-verify requirement, definitions) requires as a condition of your Contract, verification of compliance by the Contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

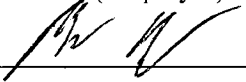
By completing and signing this form the Contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number:		
Name (as listed in the contract): KP Ventures Well Drilling & Pump Co. LLC		
Street Name and Number: 4715 Old Highway 279		
City: Camp Verde	State: AZ	Zip Code: 86322

I hereby attest that:

1. The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
2. The Contractor shall verify, through the U.S. Department of Homeland Security's E-Verify program, the employment eligibility of each employee who provides services or labor in Arizona for wages or other remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to Contractor.
3. All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.
4. The Contractor acknowledges that a breach of this warranty by the Contractor or by any subcontractor or sub-subcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by Owner.
5. Owner retains the legal right to inspect the papers of Contractor, and any subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Signature of Contractor (Employer) or Authorized Designee:



Printed Name: Tyler Johnson

Title: COO

Date (month/day/year): 11/11/2022



THE GUARANTEE™
an **[intact]** company

ATLANTIC SPECIALTY INSURANCE COMPANY

605 Highway 169 North, Suite 800
Plymouth, Minnesota 55441
Phone: 1-800-662-0156
www.onebeaconsurety.com

Bid Bond

CONTRACTOR:

(Name, legal status and address)

KP Ventures Well Drilling & Pump Co. LLC

PO BOX 2411

Cottonwood, AZ 96326

OWNER:

(Name, legal status and address)

City of Cottonwood, Arizona

821 N. Main Street

Cottonwood, AZ 86326

BOND AMOUNT: Ten Percent (10%) of the amount of the bid--

PROJECT:

(Name, location or address and Project number, if any)

FY23-UT-01

Cottonwood, AZ

SURETY:

(Name, legal status and principal place of business)

Atlantic Specialty Insurance Company

605 Highway 169 North, Suite 800

Plymouth, Minnesota 55441

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 14 day of November, 2022

Kemp Bar

(Witness)

KP Ventures Well Drilling & Pump Co. LLC, Principal (Seal)

COO

(Title)

Longfellow

(Witness)

Atlantic Specialty Insurance Company (Surety)

Kathy Avery, Attorney-In-Fact

(Title), (Seal)

The language in this document conforms exactly to the language used in AIA Document A310 – Bid Bond 2010 edition.



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **Kathy Avery, Ryan Banasky, David Evans, Ryan Falk, Rod Madsen, Kristi Lawson, Scott Lifferth**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **unlimited** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this twenty-seventh day of April, 2020.

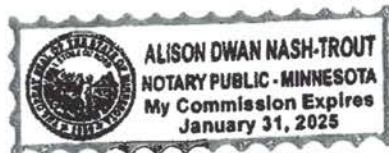


By

Paul J. Brehm, Senior Vice President

STATE OF MINNESOTA
HENNEPIN COUNTY

On this twenty-seventh day of April, 2020, before me personally came Paul J. Brehm, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated November 7, 2022 day of November, 2022.

This Power of Attorney expires
January 31, 2025



Kara Barrow, Secretary

**CONSTRUCTION SERVICES AGREEMENT AND GENERAL
CONDITIONS BETWEEN
THE CITY OF COTTONWOOD
AND
KP VENTURES WELL DRILLING & PUMP CO., LLC.**

1. DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Amendment –written or graphic instrument issued prior to the due date which clarifies, corrects or changes the Solicitation.

Architect/Engineer –the person licensed to practice architecture/engineering by the State of Arizona and who is identified as the Architect/Engineer of Record. May be utilized to provide construction administration services.

Bonds – bid, performance and payment bonds and other instruments of security.

Change Order – a document signed by the Contractor, the City Contract Representative, and the City's Administrative Services General Manager which authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Completion time, issued on or after the effective date of the Contract.

City – means the City of Cottonwood, an Arizona municipal corporation.

City Contract Representative – the City official administering the Contract for the City of Cottonwood. May also be referred to as the Project Manager.

Completion Time – the number of consecutive calendar days agreed to by the City and Contractor for completion of the Work, which may be revised by written Change Order.

Construction – the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any real public property.

Contract –the written agreement and all associated attachments, drawings, amendments and change orders executed between the City and the Contractor covering the Work to be performed.

Contract Price – the amount payable by the City to the Contractor for satisfactory completion of the Work, and as specified in the Contract as may be amended by written Change Order.

Contractor – the person, firm or corporation with whom the City has entered into the Contract.

Drawings –the graphic and pictorial portions of the contract, wherever located and whenever issued, showing the configuration, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

Estimate for Payment – a form furnished by the City or an approved form submitted by the Contractor in lieu of a City-furnished form, and is required to be used when submitting requests for payments for work actually performed and materials supplied during a preceding period of time. May also be referred to as an Application for Payment or Payment Application.

Field Order –a written order or directive issued by the City Contract Representative that orders minor changes in the Work.

Final Completion Date –the calendar date when the Work is one hundred percent (100%) complete as determined by the City.

Liquidated Damages – a sum set forth in the Contract documents that will be deducted from any monies due to the Contractor, not as a penalty, but in lieu of actual damages for late completion of the work.

Notice to Proceed – a written notice given by the City to the Contractor fixing the date on which the Completion time will commence and upon which the Contractor shall start to perform the Contractor's obligations under the Contract.

Public Inspector(s) – that person or persons provided by the public authorities having code enforcement jurisdiction and who perform inspections of the Work for compliance with applicable codes.

Schedule of Values –a schedule submitted by the Contractor setting forth the values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City Contract Representative may require. This schedule must be submitted before the Contractor submits its first application for payment and shall be used as a basis for reviewing and approving periodic, "progress payments" to the Contractor.

Shop Drawings –drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the Contractor to illustrate, in detail, how some portion of the Work shall be fabricated and/or installed, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a supplier and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

Specifications –those portions of the Contract, or Notice to Proceed if a Job Order, consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Substantial Completion – a written declaration of the date upon which the City, in its sole discretion, determines the Work is in such a condition that the City may make beneficial use thereof and/or occupy the subject of the Work.

The Work –the entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract, or, in the case of a job-order contract, within individual Notices to Proceed. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract and/or Notice to Proceed, as applicable.

1. THE CONTRACT, ITS EXECUTION AND INTENT

1.1. The Contract

- 2.1.1.** The documents in the Contract include the solicitation (IFB, RFP, RFQ, etc.), any amendments, drawings, change orders, the Contractor's proposal/response, and any additional, City-approved Contractor submittals.
- 2.1.2.** This Contract comprises the entire agreement between the City and the Contractor concerning the Work and supersedes any prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by an instrument in writing and fully executed by the authorized parties to the Contract.

2.2. Intent of the Contract

- 2.2.1.** The intent of the Contract is to include all labor, materials, equipment, transportation and all other costs and expenses necessary for the proper execution and completion of the Work by the Contractor.
- 2.2.2.** The Contractor shall take no advantage of any apparent error or omission in the plans, estimated quantities or specifications. In the event the Contractor discovers such an error or omission after contract award, the Contractor shall immediately notify the City Contract Representative. The City Contract Representative shall then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the contract.
- 2.2.3.** The Contract shall be construed in accordance with the laws of the State of Arizona, and all such laws regulating the construction of public works by the City are hereby incorporated herein by reference and made a part hereof.
- 2.2.4.** Materials or work described in words, which have a well-known technical or trade meaning or standard, shall be held to refer to such recognized meaning or standard.
- 2.2.5.** The organization of the Contract into divisions, sections or articles is merely for the purpose of convenient reference, and neither the headings nor divisions shall have any legal or contractual significance and shall not control the division of the Work by the Contractor among the various subcontractors or trades.
- 2.2.6.** The Contractor shall include all utility fees, permits, licenses, etc. including sewer connection fees in each estimate or proposal submitted.

2.3. Execution

- 2.3.1.** Execution of the Contract by the Contractor is a representation that the Contractor has thoroughly examined the Contract, and assents to each any every provision hereof.

2.4. Ownership of the Contract

- 2.4.1.** The Contract, including, but not limited to, the drawings and specifications, is the

property of the City and is not to be used by the Contractor or any subcontractor on other projects outside the scope of the Work without the express written consent of the City.

3. ADMINISTRATION OF THE CONTRACT

3.1. Lines of Authority and Communications

- 3.1.1.** Day-to-day administration of the Contract is the responsibility of the City Contract Representative, who shall also serve as the City's surveillant and technical advisor during the prosecution of the Work. The City Contract Representative also has the authority to resolve uncertainties or ambiguities concerning Contract performance and to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the Work. The City Contract Representative duties are more fully described in Section 3.2 of this Article.
- 3.1.2.** The Contractor shall supervise and direct the Work and shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work, unless the Contract gives other specific instructions concerning these matters. The Contractor's duties and responsibilities are more fully described in Article 4 of these Contract conditions.
- 3.1.3.** Except where the Contract otherwise provides or where direct communication has been specifically authorized, the Contractor shall initially and primarily communicate with the City Contract Representative.

3.2. City Contract Representative's General Authority and Responsibilities

- 3.2.1.** Unless the Contractor is responsible for the design of the Work, the City Contract Representative shall furnish to the Contractor, free of charge unless it is provided otherwise in the Contract, up to three copies of drawings, specifications and instructions available for the execution of the Work. The City Contract Representative may furnish additional clarifications or interpretations in writing or by drawings as may be necessary for the proper progress and execution of the Work. Such additional clarifications and interpretations shall be furnished with reasonable promptness, and the Contractor shall not do work without drawings or written clarifications where needed. All drawings, specifications and copies thereof furnished by the City Contract Representative are City property. They are not to be used on other work and, with the exception of the signed Contract, are to be returned to the City Contract Representative at the completion of the Work.
- 3.2.2.** The City Contract Representative shall make general and regular surveillance and inspection of the Work. By making sufficient periodic visits to the site of the Work, the City Contract Representative will become thoroughly familiar with the progress and quality of completed portions of the Work, and will assess if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract.
- 3.2.3.** The City Contract Representative will decide all questions which may arise as to the quality and acceptability of materials furnished and Work performed and as to

the rate of progress of the Work, and all questions which may arise as to the interpretation of the drawings and specifications.

- 3.2.4. The City Contract Representative shall have the authority to reject work that is not in conformity with the Contract and to order additional inspections and testing of the Work. The City Contract Representative's failure during the progress of work to discover or reject materials or work not in accordance with the plans, specifications or contract documents shall not be considered an acceptance of the work or materials or a waiver of defects. Neither the failure of the City Contract Representative to properly perform inspections, tests or approvals required by the contract documents nor the activities or duties of the City Contract Representative in the administration of this contract shall relieve the Contractor from the contractor's responsibility for the required quality of the finished Work; the means, methods, techniques, sequences or scheduling of the construction; or the obligation to perform the work in strict accordance with the contract documents.
- 3.2.5. The City Contract Representative shall conduct an initial review of, and approve or deny, requests for written Change Orders submitted by the Contractor, and may prepare Change Orders and provide field clarifications and corrections. All Change Orders must also be approved by the City's Administrative Services General Manager or his designee prior to any work being done. However, in emergencies endangering life or property, the City Contract Representative may act and issue orders and authorizations which are deemed necessary to avert the loss of life or property.
- 3.2.6. The City Contract Representative, pursuant to Article 10 of these General Conditions, shall make recommendations to the Administrative Services General Manager as to all claims of the Contractor.
- 3.2.7. The City Contract Representative will review and process the Contractor's monthly Estimates/Applications for Payment, as more fully set forth in Article 7 of these General Conditions.
- 3.2.8. The City Contract Representative will conduct inspections to determine the dates of Substantial Completion and Final Completion and will certify such dates to the Contractor and Administrative Services General Manager.
- 3.2.9. The City Contract Representative will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these items are solely the Contractor's responsibility. Failure of the City Contract Representative to note unsafe working conditions or conditions dangerous to the general public, or to stop work on account of such conditions, shall not relieve the Contractor of its sole responsibility for such conditions.

3.3. Public Inspections

- 3.3.1. Unless otherwise specifically provided in the Contract, Public Inspectors who perform day-to-day inspections of the Work for compliance with applicable codes will have authority to require compliance with drawings, specifications and applicable codes, and may provide clarification of any unspecified or unclear item

or situation.

- 3.3.2. If the drawings or specifications, laws, ordinances, or any public authority requires any work to be specially tested or approved, the Contractor shall give the City Contract Representative timely notice of its readiness for inspection. If the inspection is by an individual, authority or entity other than the City Contract Representative or the Public Inspectors, the Contractor shall advise the City Contract Representative of the date fixed for such inspection.
- 3.3.3. All tests, inspections or approvals required to be performed by the City Contract Representative, Public Inspectors, or other authorities or entities shall not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.

3.4. Special Inspections and Testing of Materials

- 3.4.1. All equipment and materials used in the construction of the Work, especially those upon which the strength and durability of the structure may depend, will be subject to adequate inspection and testing in accordance with generally accepted engineering standards, to establish conformance with specifications and suitability for the use intended, as determined by the City Contract Representative.
- 3.4.2. The performance of tests and the engagement of testing laboratories or agencies must have the prior approval of the City Contract Representative. Except as provided in subsection 3.4.3, the City will pay for approved tests and services rendered by the approved laboratory or agency in addition to the Contract price for construction.
- 3.4.3. When initial tests indicate that any portion of the Work is not in conformance with the Contract because of faulty workmanship, the Contractor shall be required to pay for necessary re-tests. When initial tests indicate that the work is in conformance with the Contract, any re-testing ordered by the City shall be paid for by the City.

4. THE CONTRACTOR'S DUTIES AND RESPONSIBILITIES

4.1. Contractor's Review of Contract and Site Conditions

- 4.1.1. It shall be the duty of the Contractor to carefully study and compare all drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative. If the Contractor performs any construction activity knowing it involves an error, inconsistency or omission in the Contract without such notice to the City Contract Representative, the Contractor shall assume full responsibility for such performance and shall pay the costs for correction.
- 4.1.2. The Contractor shall be required to use, for data and dimensions, figures marked on the drawings in preference to what the drawings may measure to scale; but in

the absence of figured dimensions, scale dimensions may be used with the prior written concurrence of the City Contract Representative. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Errors or inconsistencies shall be reported to the City Contract Representative immediately. It is the responsibility of the Contractor to provide BLUESTAKE verification of underground utilities on and off the construction site.

- 4.1.3. Change Orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications unless prior notification is given by the Contractor to the City Contract Representative.
- 4.1.4. The Contractor shall perform the Work in accordance with the Contract and with shop drawings, product data and samples that have been approved by the City Contract Representative.
- 4.1.5. Notwithstanding the above provisions, if the Contractor is responsible for the design of the Work, the Contractor shall ensure the accuracy and completeness of the drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative and shall be responsible for any required corrective action.

4.2. Contractor's Supervision

- 4.2.1. The Contractor shall efficiently and continuously perform, supervise and direct the Work, using its best skill and attention. Unless the Contract specifically provides otherwise, the Contractor shall be solely responsible for and shall exercise control over construction means, methods, techniques and procedures and shall coordinate the sequencing of all portions of the Work.
- 4.2.2. The Contractor shall provide an experienced and capable superintendent/project manager who shall attend the project site at all times during performance of the Work and who shall be acceptable to the City Contract Representative. The superintendent/project manager shall not be changed except with the concurrence of the City Contract Representative, unless that individual ceases to be in the Contractor's employ. The superintendent/project manager shall represent the Contractor in matters pertaining to the Work and this Contract and all notifications given to that person shall be as binding as if given to the Contractor.
- 4.2.3. The Contractor agrees that it is as fully responsible to the City for the acts and omissions of its subcontractors and of persons, either directly or indirectly employed by the Contractor, as it is for the acts and omissions of persons directly employed by the Contractor.

4.3. Materials and Labor; Warranty

- 4.3.1. Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, equipment, tools, construction equipment and machinery, water, gas, heat, utilities, transportation, and other facilities and services necessary for the execution, completion and delivery of the Work within the specified Completion Time.
- 4.3.2. The Contractor shall pay all applicable taxes associated with the Work.
- 4.3.3. The Contractor warrants to the City that all materials and equipment furnished under the Contract will be new unless otherwise specified, and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.
- 4.3.4. The Contractor shall furnish all materials required to complete the work, except those specified to be furnished by the City. The Contractor shall receive, inventory, store, inspect, protect, distribute, and install City furnished material unless otherwise specified. The cost of handling and placing all materials after they are delivered to the Contractor shall be considered as included in the contract price for the item in connection with which they are used. The Contractor shall be held responsible for all material delivered to the Contractor. Deductions shall be made from any monies due the Contractor to make good any shortages or deficiencies, from any cause whatsoever and for any damage which may occur after such delivery, and for any late delivery charges.
- 4.3.5. The Contractor will be held to furnish all work as specified in the Contract. After a price proposal for the Work has been accepted by the City, changes of brand-named, trade-named, trademarked and/or patented articles, or any other substitutions will be allowed only by written order signed by the City Contract Representative. Unless otherwise agreed to via Change Order, the City shall receive all benefits of the difference in cost.
- 4.3.6. Materials not conforming to the requirements of the specifications, whether in place or not, shall be rejected and shall be promptly removed from the site of the work, unless otherwise directed by the City Contract Representative. No rejected material, the defects of which have been corrected, shall be returned to the work site until such time as approval for its use has been given by the City Contract Representative.

4.4. Construction Schedules and Submittals

- 4.4.1. Before commencing the Work, the Contractor shall provide the City Contract Representative with a construction schedule for the Work, fixing the dates at which various pre-determined events shall occur in order to promote a timely completion of the various parts of the Work in accordance with the Contract. The schedule may be revised from time to time as may be required by conditions of the Work, but shall not exceed time limits, or any extensions thereof, set forth in the Contract.
- 4.4.2. The Contractor shall prepare and keep current for the City Contract

Representative's approval, a schedule of submittals which shall be coordinated with the Contractor's construction schedule and allow the City Contract Representative reasonable time to review such submittals.

- 4.4.3. After review, the City Contract Representative, with reasonable promptness, shall approve these shops or setting drawings, product data, samples and sequences for conformance with the design concept of the project, the approved construction schedule, and other requirements of the Contract.
- 4.4.4. The Contractor shall make any corrections required by the City Contract Representative and re-submit such corrected materials to the City Contract Representative for approval. Any correction or change that will result in a design or function change or in an increase or decrease in the Contract price must also receive the prior approval of the City's Administrative Services General Manager or his designee.
- 4.4.5. The Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples or schedules until the respective submittals have been approved by the City Contract Representative, and shall not deviate from such submittals after final approval by the City Contract Representative.
- 4.4.6. When re-submitting shop drawings, product data, samples or similar submittals containing requested revisions requested by the City Contract Representative on previous submittals, the Contractor must direct specific attention to any revisions it has independently made in such shop drawings, product data, samples or other submittals over and above those revisions specifically requested by the City Contract Representative.
- 4.4.7. Approval by the City Contract Representative of shop drawings, product data or other submittals shall not relieve the Contractor of responsibility for deviations from requirements of the Contract unless the Contractor has specifically informed the City Contract Representative in writing of such deviation at the time of submittal and the City Contract Representative has given a written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in shop drawings, product data, samples or similar submittals by the City Contract Representative's approval thereof.
- 4.4.8. "As-built" documents must be provided to the City by the Contractor within thirty days of substantial completion. The City reserves the right to withhold final payment until complete as-builts have been received in good order by the City Contract Representative.

4.5. Documents and Samples at the Work Site

- 4.5.1. Unless otherwise directed by the City's Contract Representative, the Contractor shall maintain at the Work site a complete file of the drawings, specifications, amendments, change orders and other approved modifications, in good order and marked to reflect changes and selections made during construction, together with all approved shop drawings, product data, samples and similar required submittals.

Such files shall be made available to the City Contract Representative and Public Inspectors upon request.

4.6. Protection and Use of Site – (Signs, Utilities, Water, Sanitation, Traffic, etc.)

- 4.6.1.** The City will provide land, rights-of-way and easements for all work specified in the Contract. The Contractor shall confine its apparatus, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits or directions of the City Contract Representative, and shall not unreasonably encumber the premises with their material and equipment.
- 4.6.2.** Contractor shall prevent any damage to pipes, sewers, computer and phone lines, conduits or other structures, including public and/or private lawns, gardens, shrubbery and trees encountered in the Work, and shall hold the City harmless from damages for any injury done to such pipes, structures or property during the course of the Work.
- 4.6.3.** Work shall be accomplished so that there will be a minimum of traffic interruption and inconvenience, discomfort or damage to the public. The Contractor shall maintain sufficient barricades, flares, signs, etc., as outlined in a traffic control plan or as otherwise directed by the City Contract Representative. If it becomes necessary to close a street entirely during certain phases of the work permission shall be obtained from the City Contract Representative and City or County Traffic Engineer, as the location of the Work may require. Police and Fire Departments must be notified twenty-four (24) hours in advance of the closing and opening of said street and the Contractor must furnish and place all necessary barricades and/or detour signs.
- 4.6.4.** The Contractor shall supply safe drinking water for all Contractor employees at the Work site. Reclaimed construction water is available to the Contractor from the City's wastewater treatment facility located at 1480 West Mingus Avenue. The Contractor shall first establish a reclaimed water account with the utility billing division located at 111 North Main Street.
- 4.6.5.** If archaeological, historical or paleontological features are encountered or discovered during any activity related to the Work, the Contractor shall stop work immediately at that location and shall take all reasonable steps to secure the preservation of those features. The City Contract Representative will make arrangements for the proper treatment of the affected portion of the Work site. The Contractor shall not resume work in the affected portion without the prior approval of the City Contract Representative. Extensions in the Completion time for delays resulting from the discovery of archaeological, historical or paleontological features, if such discovery results in a delay to the progress of the Work, may be claimed by the Contractor in accordance with Article 10 of these General Conditions.

4.7. Cutting and Patching

- 4.7.1.** The Contractor shall do all cutting, fitting or patching of the Work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors shown upon or reasonably implied by the

drawings and specifications for the completed project.

- 4.7.2. The Contractor shall not endanger any work by cutting, patching, digging or otherwise, and shall not cut or alter the work of any other contractor except with the prior written consent of the City Contract Representative and the other contractor.
- 4.7.3. Any cost incurred by reason of endangered, defective, ill fitted or ill-timed work shall be borne by the contractor responsible therefor as determined by the City Contract Representative.
- 4.7.4. Each section of the specifications includes all cutting and patching for that trade section as required for the proper accommodation of all work by other trades, unless specifically stated to the contrary. In the event that the specifications are inadequate in this respect, the City Contract Representative shall issue any necessary and appropriate written clarifications.

4.8. Cleaning Up

- 4.8.1. The Contractor shall at all times keep the construction site and surrounding area free from accumulations of waste material or rubbish caused by operations under the Contract. Upon completion of the Work, the Contractor shall remove all rubbish, tools, equipment, scaffolding and surplus materials from the site and surrounding areas and leave the area in "broom clean" condition or its equivalent, unless otherwise instructed by the City Contract Representative.
- 4.8.2. If the Contractor fails to clean up as provided herein, the City may do so and the cost thereof shall be charged against the Contractor.

4.9. Emergencies

- 4.9.1. In an actual emergency affecting imminently the safety of life or property, the Contractor, without special instruction or authorization from the City Contract Representative, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury.
- 4.9.2. Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays, shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Contract Representative.
- 4.9.3. The Contractor shall file with the City Contract Representative the names, addresses and telephone numbers of its representatives who can be contacted at any time in case of emergency. These Contractor representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by the City or the Public Inspectors.

4.10. Permits, Fees and Notices

- 4.10.1. The Contractor shall, at its own expense, obtain all necessary permits and licenses for work performed under the Contract, and shall give all necessary notices

required by laws, ordinances, rules, regulations and lawful orders of public authorities pertaining to performance of the Work, public health and safety.

- 4.10.2. If the Contractor performs work which is not in compliance with such laws, ordinances, rules, regulations or orders, without notice to the City Contract Representative, the Contractor shall assume full responsibility for such Work and shall bear all costs attributable thereto.

4.11. Royalties and Patents

- 4.11.1. The Contractor shall pay all royalties and license fees.
- 4.11.2. The Contractor and its sureties shall defend any suit or proceeding brought against the City, during the prosecution or after the completion of the work, based on a claim that the manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark, or copyright, and the Contractor shall pay all damages and costs awarded therein, against the City and any affected third parties or political subdivisions. If the manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if the manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Contractor shall, at its own expense, either procure for the City the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or, subject to the City Project Manager's approval, replace the same with a non-infringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so that it becomes non-infringing.
- 4.11.3. If appropriate, the Contractor shall furnish the City Contract Representative satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes, as the case may be.

4.12. Protection of Persons and Property

- 4.12.1. The Contractor shall be responsible for initiating, maintaining, supervising and directing all safety precautions and programs in connection with the performance of the Contract.
- 4.12.2. The Contractor shall be responsible for the protection of all Work until completion and final payment is made, including any material or equipment to be incorporated into the Work, whether such material or equipment is in storage on or off the Work site.
- 4.12.3. The Contractor shall, at its own expense, replace damaged or lost material, or repair damaged parts of the Work or of other property at the work site or adjacent thereto, and the Contractor and its sureties shall be liable therefore.
- 4.12.4. The Contractor shall assume all risks from floods and casualties and shall make no

claim for damages for delay from such causes. However, a reasonable extension of time on account of such delays may be allowed, subject to the conditions contained in Article 6 of these General Conditions.

- 4.12.5. In the event the Contractor encounters on the work site material reasonably believed to be a hazardous material, such as asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop work in the area affected and report the condition to the City Contract Representative.
- 4.12.6. The Contractor shall take all necessary precautions for the safety of employees on the work site and other persons who may be affected thereby, and shall comply with all applicable provisions of Federal, State and Municipal safety laws, ordinances and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. The Contractor shall erect and properly maintain at all times, as required by the condition and progress of the Work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials.
- 4.12.7. The Contractor warrants it is fully familiar and shall comply with all of the safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 641-678, or as amended or recodified from time to time). Also, the Hazard Communication Act relating to the use of hazardous materials (29 C.F.R. 1910-1200, or as amended or recodified from time to time), as promulgated by the Federal Government and/or as implemented by the State of Arizona, and that it will be solely responsible for all fines and penalties provided for by law for any violation of such Act and, furthermore, shall require all subcontractors to comply with such Acts and with the provisions of this section. Any claims arising out of alleged violations of such Acts are covered by the indemnification requirements set forth in Section 4.13 of these General Conditions.

4.13. Indemnification and Insurance

- 4.13.1. To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Cottonwood, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the arising solely out of the acts or omissions of the City.
- 4.13.2. The Contractor Agrees to:

- 4.13.2.1.** Obtain insurance coverage of the types and in the amounts required in this subsection and keep such insurance coverage in force throughout the life of the Contract. The Contractor will provide satisfactory certificates of the required coverage to the City Contract Representative before beginning the Work. All policies will contain an endorsement providing that written notice shall be given to the City at least ten (10) calendar days prior to termination, cancellation or reduction in coverage in any policy.
- 4.13.2.2.** Include or cause the City to be included as an additional insured on the General Liability Insurance and Automobile Liability Insurance policies with respect to liability arising out of the performance of the Work. The Contractor agrees that the insurance required hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- 4.13.2.3. Insurance.** Contractor shall carry all insurance which may be required by Federal and State laws, County and City ordinances, regulations and codes in the amounts specified below and shall keep such insurance coverage in force throughout the life of the Contract.

	Minimum Requirements	
Worker's Compensation	Statutory Requirements	
General Liability Occurrence	\$1,000,000	per
Products/Completed Operations Occurrence	\$1,000,000	per
Automobile Liability Occurrence	\$1,000,000	per

Liability policy shall include coverage for:

- A. Liability assumed in agreements in effect in connection with insurer's operations.
- B. All owned, hired, or non-owned automotive and truck equipment used in connection with the insured operation.

Contractor must furnish to the City written evidence of the types and amounts of insurance coverage required by the City, including endorsements naming the City as an additional insured, and waiving subrogation against the City. The Certificate of Insurance shall specify that the insurance afforded Contractor shall be primary insurance and that any insurance coverage carried by the City or its employees shall be excess coverage and not contributory insurance to that provided by the Contractor. Said policy shall contain a severability of interest's provision.

The Contractor's insurance is primary and non-contributory as to any claims resulting from the Contract.

These policies shall not expire within the term of this Contract. If a policy does expire during the term of the Contract, a renewal Certificate of the required coverage must be sent to the City of Cottonwood not less than ten (10) days prior to the expiration date. All policies shall contain an endorsement providing that written notice be given to the City at least thirty (30) calendar days prior to termination, cancellation, or reduction of coverage on any policy. Neither the Contractor nor any subcontractor shall commence work under a Contract until the City has approved the insurance. The entire project covered by the Contract shall be at the Contractor's risk until final acceptance by the City.

The City shall have no responsibility or liability for such insurance coverage.

In the event any of the Work is subcontracted, the Contractor shall require its subcontractors to provide Workers' Compensation insurance for all of its/their employees engaged in the Work, unless and to the extent that such employees are covered by the protection afforded by the Contractor's Workers' Compensation insurance. In case any class of employees engaged in hazardous work under the Contract is not protected under the Workers' Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's general liability insurance for the protection of such of their employees as are not otherwise protected.

4.13.2.4. Indemnification. To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Cottonwood, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the arising solely out of the acts or omissions of the City.

5. SUBCONTRACTS AND SEPARATE CONTRACTS

5.1. Subcontracts

5.1.1. The Contractor shall ensure that the subcontractors assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor

requests substitution of subcontractors, the Contractor shall obtain prior approval from the City Contract Representative for subcontractor substitution. The Contractor shall ensure that substituted subcontractors are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City Contract Representative for consideration and approval prior to substitution taking place.

- 5.1.2.** The Contractor agrees that each subcontractor shall be bound to the Contractor by each and all of the terms of this Contract. In the event of a conflict between the substance of a written subcontract and the language of this Contract, the language of this Contract shall prevail in every case.
- 5.1.3.** Contractor shall ensure that each subcontract shall preserve and protect the rights of the City under the Contract with respect to the work to be performed by the subcontractor. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with sub-subcontractors. In this connection, the Contractor shall make available to each subcontractor, prior to execution of any subcontract, copies of the provisions of this Contract to which the subcontractor will be bound. Subcontractors shall also make copies of applicable portions of the Contract available to their respective subcontractors.
- 5.1.4.** Each subcontract will require the subcontractor to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment to the City in a timely manner, including any claims for extras, extensions of time, and damages for delays or otherwise to the Contractor in the manner provided in this Contract for like claims by the Contractor upon the City.
- 5.1.5.** The Contractor further agrees:
 - 5.1.5.1.** To be bound to the subcontractor by all the obligations that the City assumes to the Contractor under this Contract, and by all provisions thereof affording remedies and redress to the Contractor from the City.
 - 5.1.5.2.** To promptly pay its subcontractors in accordance with applicable State statutes.
 - 5.1.5.3.** That, at all times, the subcontractors' total payments shall be proportionate to the value of the labor and materials provided by them. Payment may be preconditioned upon the subcontractors providing the Contractor with requested partial or final lien waivers.
 - 5.1.5.4.** To pay its subcontractors to such extent as may be provided by the Contract or the subcontract, if either of these provides for earlier or larger payments than the above.
 - 5.1.5.5.** To ensure timely payment to subcontractors for their work as performed and for materials fixed in place, less any applicable retention, despite any delay by the City in making payments to the Contractor for any cause not the fault of the subcontractor.

- 5.1.5.6.** To share or forward, as appropriate, with its subcontractors or, as appropriate, with the City, any fire insurance monies received by the Contractor under the insurance provisions of the Contract.
- 5.1.5.7.** That no claim for services rendered or materials furnished by the Contractor to its subcontractors shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claim originated.
- 5.1.5.8.** To give its subcontractors an opportunity to be present and to submit evidence in any contract claim, controversy or dispute.
- 5.1.6.** Nothing in this Article shall create any obligation on the part of the City to pay to, or to see to the payment of, any sums to any subcontractor, except as may otherwise be required by law.
- 5.1.7.** Each subcontract agreement for a portion of the Work is hereby assignable by the Contractor to the City provided that:

 - 5.1.7.1.** Assignment is effective at the sole option of the City and only upon termination of this Contract for cause pursuant to Article 9 of these General Conditions, and only for those subcontract agreements which the City determines to accept by notifying the subcontractor in writing, and;
 - 5.1.7.2.** Assignment is subject to the prior rights of sureties obligated under the Bonds relating to the Contract.

5.2. Separate Contracts

- 5.2.1. The City reserves the right to perform construction or operations related to the Work with the City's own forces and to let separate Contracts in connection with other portions of the Work or other construction or operations on the Work site.
- 5.2.2. The Contractor shall afford other Contractors on the Work site reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs.
- 5.2.3. The City Contract Representative shall coordinate the activities of the City's own forces and of each separate Contractor with the work of the Contractor. The Contractor and all other Contractors on the Work site shall be required to review their construction schedules and cooperate with the City Contract Representative in coordinating the various portions of the Work with the schedules of such separate contractors.
- 5.2.4. If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the City Contract Representative any defects in such work that render it unsuitable for continuance of the Contractor's Work. Failure to inspect and report may constitute an acceptance of the other contractor's work as fit and proper for

the reception of the Contractor's Work, except as to defects not then reasonably discoverable.

- 5.2.5. Costs caused or suffered by the Contractor because of delays or by improperly timed activities or defective construction shall be borne solely by the Contractor.
- 5.2.6. If the Contractor causes damage to any separate contractor on the site, the Contractor, upon due notice, agrees to settle with such separate contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the City on account of any damage alleged to have been so sustained, the City shall notify the Contractor, who shall defend such proceedings and, if any judgment against the City arises therefrom, the Contractor shall pay or satisfy it.
- 5.2.7. Should separate contractors on the Work cause any damage, cost or loss to the Contractor, the City shall not be held responsible or liable therefor in any way other than extensions of completion time in accordance with Article 6 of these General Conditions.

6. TIME FACTORS; LIQUIDATED DAMAGES

6.1. Time

- 6.1.1. Unless otherwise provided in the Contract, the Completion time is the number of consecutive calendar days, including authorized time extensions specified for completion of the Work.
- 6.1.2. Completion time shall commence on the day specified in the Notice to Proceed. The date shall not be postponed on account of the failure of the Contractor, or of any of its subcontractors to take any action required to commence the Work.
- 6.1.3. The date of Substantial Completion is the date certified by the City Contract Representative pursuant to Section 7.4.1 of these General Conditions. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- 6.1.4. The term "day" as used in this Contract shall mean a calendar day, including weekends and holidays.
- 6.1.5. By execution of the Contract documents, the Contractor agrees that the time described is a reasonable period for a competent Contractor to complete the Work.
- 6.1.6. The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the agreed upon time frame. If the Contractor is delayed on any portion of the Work for any reason whatsoever, it shall expeditiously proceed on other portions of the Work which are not affected by such delay.

6.2. Liquidated Damages

- 6.2.1.** The amount of liquidated damages shall be as specified in the Construction Services Agreement set forth in Article 12 below.
- 6.2.2.** The Contractor specifically acknowledges and agrees that the City shall enforce the liquidated damages provisions set forth in this Contract.
- 6.2.3.** The Contractor further acknowledges and agrees that the City will incur damages if the Contractor fails to complete the Work within the Completion time or any approved extensions thereof and that the liquidated damages specified in the Contract represent a fair and equitable approximation of the City's actual damages.

For each calendar day that the Contractor shall fail to achieve Substantial Completion after the calendar date agreed to for the completion of the Work provided for in the Contract, the sum set forth in the Contract documents shall be deducted from any monies due the Contractor, not as penalty, but as liquidated damages; provided however, that due account will be taken of any adjustments of the Completion time for the completion of the work allowed under the Contract.

Permission allowing the Contractor to continue and finish any part of the Work after the time fixed for its completion or after the date to which the time for completion may have been extended shall in no way operate as a waiver on the part of the City of any of its rights under the Contract, including its right to assess, collect and/or retain liquidated damages.

Once substantial completion is granted, the Contractor shall achieve final completion within thirty (30) calendar days, unless otherwise agreed upon. If final completion does not occur within that time, liquidated damages shall commence on the first day after that date, and continue to accrue until final completion occurs.

6.3. Delays and Time Extensions

- 6.3.1.** It is agreed that the City's only liability for any delay from any cause shall be limited to granting a time extension to the Contractor and that no extended general conditions for any delay will be applicable unless specifically agreed to in writing by the City. There is no other obligation, express or implied, on the part of the City to the Contractor for delay from any cause.

6.3.2. Force Majeure

- 6.3.2.1.** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of an obligation arising under this Contract is prevented by reason of Force Majeure. For the purposes of this Contract, the term "Force Majeure" means a major occurrence that is beyond the control of the parties affected and occurs without the delayed party's fault or negligence. Force Majeure shall not include late performance by a sub-contractor unless the delay arises out of a Force Majeure occurrence in accordance with the definition of Force Majeure set forth

herein.

6.3.2.2. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall immediately notify the other party in writing of such delay of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt requested and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when the delay has ended. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay reasonably prevented the delayed party from performing in accordance with this Contract.

6.3.3. The completion time shall be extended when and to the extent that a delay in completion of the Work by either the Contractor or the subcontractors is due to any preference, priority or allocation order duly issued by the Federal Government.

6.3.4. Time extensions shall only be granted for delays caused by the City, changes authorized in accordance with Article 8 of these General Conditions, or delays covered by Sections 6.3.2 and 6.3.3 of these General Conditions.

6.3.5. Should a dispute arise between the Contractor and the City regarding a delay or requested time extension, the Contractor shall diligently continue progress on the Work until the dispute is resolved.

7. PAYMENTS TO THE CONTRACTOR

7.1. Contract Price; Request for Payment; Schedule of Values

7.1.1. The Contract amount stated in this Contract plus or minus any authorized adjustments is the amount payable by the City to the Contractor for performance of the Work under the Contract.

7.1.2. During the course of construction, the Contractor shall request payment for work actually performed during the preceding month or some other time period as mutually agreed to, using "ESTIMATE FOR PAYMENT" forms which are furnished by the City or on such alternative forms submitted by the Contractor as are approved by the City's Contract Representative. Completed forms shall be submitted to the City Contract Representative. A schedule of values and an updated project schedule shall accompany each request for payment.

7.2. Certification and Payment; Retainage; Substitute Securities

7.2.1. The City may in its discretion make progress payments on Contracts of less than ninety days duration and shall make monthly progress payments on all other Contracts as provided for in this paragraph. Payment to the Contractor on the basis of a duly certified and approved estimate for payment of the work performed during the preceding calendar month under the Contract may include payment for

material and equipment, but to ensure the proper performance of the Contract, the City shall retain ten per cent of the amount of each estimate until final completion and acceptance of all material, equipment and work covered by the Contract. The City may withhold an amount from the progress payment sufficient to pay the expenses the City reasonably expects to incur in correcting any deficiencies identified in writing. The progress payments shall be paid on or before thirty (30) days after the estimate of the work is certified and approved. The estimate of the work shall be deemed received by the City on submission to any person designated by the City for the submission, review or approval of the estimate of the work.

- 7.2.2. When the Contract is fifty per cent complete, one-half of the amount retained including any securities substituted under paragraph 7.2.4 shall be paid to the Contractor upon the Contractor's request provided the Contractor is making satisfactory progress on the Contract (as determined by the City Contract Representative) and there is no specific cause or claim requiring a greater amount to be retained. After the Contract is fifty per cent complete, no more than five per cent of the amount of any subsequent progress payments made under the Contract may be retained as long as the Contractor is making satisfactory progress on the project, except that if at any time the City determines satisfactory progress is not being made ten per cent retention shall be reinstated for all progress payments made under the Contract after such determination.
- 7.2.3. On completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, except as qualified in paragraph 7.2.5, payment may be made in full, including retained percentages, less authorized deductions. In preparing estimates, the material and equipment delivered on the site to be incorporated in the job shall be taken into consideration by the City Contract Representative in determining the estimated value to be certified and paid. ***Notwithstanding any other provision of these General Conditions or any other provision of the Contract, no monies shall be paid or advanced to Contractor on account of services, material and/or equipment performed or stored off site.***
- 7.2.4. All remaining funds retained by the City shall be paid to the Contractor within sixty days after completion or filing notice of completion of the Contract by the Contractor. Retention of payments by the City longer than sixty days after final completion and acceptance requires a specific written finding by the City of the reasons justifying the delay in payment. The City may not retain any monies after sixty days that are in excess of the amount necessary to pay the expenses the City reasonably expects to incur in order to pay or discharge the expenses determined by the City in the finding justifying the retention of monies. In lieu of the retention provided in this section, the City, at the option of the Contractor, shall accept as a substitute an assignment of time certificates of deposit of banks licensed by this state, securities of or guaranteed by the United States of America, securities of this state, securities of counties, municipalities and school districts within this state or shares of savings and loan institutions authorized to transact business in this state, in an amount equal to ten per cent of all estimates that are retained by the City as a guarantee for complete performance of the Contract. If the City accepts substitute security as described in this paragraph for the required retention, the Contractor is entitled to receive all interest or income earned by this security as it accrues and all such security in lieu of retention shall be returned to the Contractor by the City

within sixty days after final completion and acceptance of all material, equipment and work covered by the Contract if the Contractor has furnished the City satisfactory receipts for all labor and material billed and waivers of liens from any and all persons holding claims against the work. In no event shall the City accept a time certificate of deposit of a bank or shares of a savings and loan institution in lieu of the retention specified unless accompanied by a signed and acknowledged waiver of the bank or savings and loan association of any right or power to set off against either the City or the Contractor in relationship to the certificates or shares assigned.

- 7.2.5. In any instance where the City has accepted substitute security as provided in paragraph 7.2.4, any subcontractor undertaking to perform any part of this public work is entitled to provide substitute security to the Contractor on terms and conditions similar to those described in paragraph 7.2.4, and this security is in lieu of any retention under the subcontract.
- 7.2.6. The Contractor shall pay to its subcontractors or material suppliers and each subcontractor shall pay to its subcontractors or material suppliers, within seven days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the Contractor or subcontractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest, except that no Contract for construction services may materially alter the rights of any Contractor, subcontractor or material supplier to receive prompt and timely payment as provided under this section and Arizona's Prompt Payment Statutes. The payments to subcontractors or material suppliers shall be based on payments received pursuant to this section. Any diversion by the Contractor or subcontractor of payments received for work performed on a Contract, or failure to reasonably account for the application or use of those payments, constitutes grounds for disciplinary action by the Registrar of Contractors. The subcontractor or material supplier shall notify the Registrar of Contractors and the City in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this section.
- 7.2.7. A subcontractor may request in writing that the subcontractor be notified by the City in writing of each progress payment made to the Contractor within five days of such payment having been made. The subcontractor's request remains in effect for the duration of the subcontractor's work on the project.
- 7.2.8. Nothing in this section prevents the Contractor or a subcontractor, at the time of application and certification to the City or Contractor, from withholding the application and certification to the City or Contractor for payment to the subcontractor or material supplier for unsatisfactory job progress, defective construction work or materials not remedied, disputed work or materials, third party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor to make timely payments for labor, equipment and materials, damage to the Contractor or another subcontractor, reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum or a reasonable amount for retention that does not exceed the actual percentage retained by the City.

7.2.9. Reserved.

7.2.10. If any periodic or final payment to a subcontractor is delayed by more than seven days after receipt of the periodic or final payment by the Contractor or subcontractor, the Contractor or subcontractor shall pay the subcontractor or material supplier interest, beginning on the eighth day, at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.

7.2.11. The City Contract Representative, with reasonable dispatch, will review the contents of the ESTIMATE FOR PAYMENT submitted by the Contractor, determine the sufficiency of the estimate, satisfy himself that the City has received full value, certify the estimate and submit it through normal channels for payment. ***Notwithstanding any other provision of these General Conditions or any other provision of the Contract, no monies shall be paid or advanced to Contractor on account of services, material and/or equipment performed or stored off site.***

7.2.12. Neither the certification nor payment made to the Contractor, nor partial or entire use or occupancy of the Work by the City shall constitute an acceptance of any portion of the Work or a waiver of defects, errors or omissions of any kind or nature whatsoever, except as are explicitly accepted by the City in a separate signed writing.

7.3. Payment Withheld

7.3.1. If the City Contract Representative is unable to certify a request for payment in whole or in part because, after observing the Work and the data comprising the ESTIMATE FOR PAYMENT, the City Contract Representative determines that the Work has not progressed or the quality of the Work is not in accordance with the Contract, the City Contract Representative shall promptly notify the Contractor. If the City Contract Representative and the Contractor cannot agree on a revised amount, the City Contract Representative will promptly issue a certificate for payment in an amount the City Contract Representative reasonably determines is justified.

7.3.2. The City Contract Representative or other City official, as a result of subsequently discovered evidence, may also withhold or nullify the whole or a part of any certification to such extent as may be necessary to protect the City from loss on account of:

7.3.2.1. Defective work not remedied.

7.3.2.2. Third-party claims filed or reasonable evidence indicating probable filing of such claims.

7.3.2.3. Failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment.

7.3.2.4. Reasonable doubt that the Work can be completed for the unpaid balance of the Contract amount, or reasonable evidence that the Work will not be completed within the Completion time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the

anticipated delay.

7.3.2.5. Damage to another contractor or to the City.

7.3.2.6. Damage to the real or personal property of another and failure to repair or replace the same.

7.3.2.7. Persistent failure to carry out the Work in accordance with the Contract.

7.3.3. When the grounds for withholding payment have been corrected to the satisfaction of the City Contract Representative or other City official concerned, the City shall proceed to process any amounts due.

7.4. Substantial Completion

7.4.1. When the Contractor considers that the Work, or a portion thereof which the City has agreed to accept separately, is ready for its intended use, it shall notify the City Contract Representative in writing that the Work, or such portion thereof, is substantially complete and request that the City Contract Representative issue a Certificate of Substantial Completion. Within a reasonable time thereafter, the City Contract Representative will make an inspection of the Work, or the designated portion thereof, to determine the status of completion. If the inspection discloses any item that is not in accordance with the Contract, the Contractor shall, before issuance of a Certificate of Substantial Completion, complete or correct such item. The Contractor shall then submit a request for a re-inspection by the City Contract Representative. When the Work or designated portion thereof is determined to be substantially complete, the City Contract Representative will prepare a Certificate of Substantial Completion for signature of the parties, fixing therein the date of Substantial Completion and establishing the responsibilities of the City and Contractor, pending final payment by the City, for security, maintenance, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list attached to the certificate.

7.4.2. Warranties required by the Contract shall commence on the date of Final Completion for a period of two years, except where a specific provision of the Contract provides otherwise.

7.5. Final Completion and Final Payment

7.5.1. Upon receipt of notice from the Contractor that the Work is ready for final inspection and upon receipt of a request for final payment, the City Contract Representative will determine that all items on the punch list have been completed or corrected and the City will make payment reflecting adjustments in retainage, if any, for such work or portion thereof as provided for in the Contract.

7.6. Consent of Surety/ Lien Waivers and As-Built Drawings

7.6.1. Neither the final payment nor any part of the retained percentage shall become due until the Contractor provides to the City Contract Representative with a Consent of Surety Certificate from the Contractor's sureties or, at the City Contract Representative's discretion, sufficient lien waivers, and all as-built drawings as

required by this Contract and/or the City Contract Representative.

7.7. Partial Utilization

7.7.1. The City may occupy or use any portion of the Work which the City and the Contractor agree constitutes a separately functioning and usable part of the Work that can be used by the City without significant interference with the Contractor's performance of the remainder of the Work. Such use or occupancy may commence whether or not the portion is substantially complete, provided the City and the Contractor have accepted in writing their mutual responsibilities regarding the used portion, including but not limited to insurance coverage, maintenance and utilities.

7.7.2. Partial use or occupancy of the Work by the City shall not constitute acceptance of Work not complying with the requirements of the Contract.

8. UNCOVERING AND CORRECTION OF WORK; CHANGES IN THE WORK

8.1. Uncovering of Work

8.1.1. Piping, wiring, ducts, etc., shall not be covered up before proper inspection, approval and certificates, if required, are issued. Should any work that is designated for inspection by the City Contract Representative or the Contract before covering is covered before such inspection, it must be uncovered by the Contractor at its expense when examination is ordered by the City Contract Representative.

8.1.2. If a portion of the Work not designated by the City Contract Representative or the Contract for inspection has been covered and the City Contract Representative or a Public Inspector orders such work uncovered for inspection, the Contractor shall immediately uncover such work. If such uncovered work is found to be in accordance with the Contract, an appropriate Change Order shall be issued to compensate the Contractor for the expense of uncovering and replacing the work. If such work is found to be not in compliance with the Contract, the Contractor shall pay such costs, unless the condition was caused by the City or a separate Contractor.

8.1.3. The City shall not be responsible for or bear the cost of any re-examination and replacement occasioned by defects in the work caused by subcontractors.

8.2. Correction of Work

8.2.1. Correction of Work Before Final Payment. The Contractor shall promptly remove from the site of the Work all materials and/or associated portions of the Work rejected by the City Contract Representative as failing to conform to the Contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract, without expense to the City, and shall bear the expense of making good the work of other contractors destroyed or damaged by such removal or replacement. If the Contractor does not remove such rejected Work and/or materials within a reasonable time, fixed by written notice, the City may remove it and may store the materials at the expense

of the Contractor. If the Contractor does not pay the expenses of such removal within ten (10) days' time thereafter, the City may, upon ten (10) days' written notice, sell such materials at auction or private sale and credit the Contractor for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor. Any omission on the part of the City to condemn defective work or material at the time of construction shall not be deemed an acceptance, and the Contractor shall be required to correct defective work or material for which claim is made by the City at any time before the expiration of the warranty period which runs for two (2) years past the date of final completion and acceptance of the Work by the City.

8.2.2. Correction of Work After Final Payment. If, within two (2) years after the date of Final Completion of the Work or designated portion thereof, or within two (2) years after acceptance by the City of designated equipment, or within such longer period as may be prescribed by law or by the terms of any applicable special warranty required by the Contract, any of the Work is found to be defective or not in accordance with the Contract, the Contractor shall correct it promptly after receipt of a written notice from the City to do so, unless the City has previously given the Contractor a written acceptance of such condition. The City shall give notice promptly after discovery of the condition. The two (2) year period for discovery shall be extended as to any portion of the Work first performed after Substantial Completion and the actual performance of the Work. The obligation contained in this subsection shall survive acceptance of the Work under the Contract and/or termination of the Contract. Nothing contained in this Article 8 shall be construed to establish a period of limitations with respect to other obligations which the Contractor might have under the Contract and/or applicable law. Establishment of the two (2) year discovery time period relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

8.2.3. Should the Contractor fail to repair such defective material and/or workmanship or to make replacements within five (5) calendar days after written notice by the City, it is agreed that the City may, at its sole discretion, make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by the Contractor and/or its sureties.

8.3. Changes in the Work

8.3.1. The City Contract Representative may order extra work or make changes by altering, adding to or deducting from the Work, the Contract price being adjusted accordingly and equitably by Change Order. All such work shall be executed under the conditions of the original Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

8.3.2. If, instead of requiring corrections or removal of work not conforming to the requirements of the contract, the Work is determined to be acceptable with diminished value in the sole judgment of the City Contract Representative, a deductive change order shall be issued incorporating the necessary revisions in the

Contract, including an appropriate reduction in the Contract Price. Such a deductive change order does not require the signature or approval of the Contractor. Such acceptance of non-conforming work shall not constitute a waiver of any other work required under this Contract.

8.3.3. The value of any extra work or change ordered under the Contract shall be determined in one or more of the following ways:

8.3.3.1. By estimate and acceptance in a lump sum.

8.3.3.2. By unit prices in the Contract or subsequently agreed upon prices.

8.3.3.3. By a fixed fee.

9. SUSPENSION OR TERMINATION OF THE WORK

9.1. Suspension of the Work for Cause; City's Right to Perform the Work

9.1.1. If the Contractor fails to correct Work which is not in accordance with the Contract, or persistently fails to carry out the Work in accordance with the Contract, the City Contract Representative may order the Contractor in writing to stop the Work, or any portion of the Work, until the cause for such order has been eliminated.

9.1.2. If the Contractor fails to prosecute the Work properly or fails to perform any provision of this Contract, the City may, five (5) days after written notice to the Contractor, and without prejudice to any other remedy the City may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor and its surety shall be liable to the City for such deficiency.

9.2. Termination by the City for Cause

9.2.1. The City, upon certification by the City Contract Representative, without prejudice to any other right or remedy of the City and after giving the Contractor seven (7) days written notice, may terminate this Contract as to all or any part of the Work for any of the following reasons:

9.2.1.1. If the Contractor abandons the Work, or unnecessarily delays the Work.

9.2.1.2. If the Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials or competent subcontractors.

9.2.1.3. If the Contractor fails to make payment to any subcontractor for materials or labor in accordance with the respective agreements between the Contractor and such subcontractor or as expressly set forth herein.

9.2.1.4. If the Contractor persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction, or persistently violates the conditions or covenants of this Contract.

interrupt the Work in whole or in part for such period of time as the City may determine whenever such suspension or interruption would be in the best interest of the City.

9.3.2. If the City suspends the Work for convenience, an adjustment shall be made for substantiated increases in the cost of performance of the Contract, if any, including profit on the increased cost of performance, caused by suspension or interruption. No adjustment shall be made to the extent:

9.3.2.1. That performance is, was or would have been so suspended or interrupted by another cause for which the Contractor is responsible, or

9.3.2.2. That an equitable adjustment is made or denied by the City.

9.4. Termination by the City for Convenience

9.4.1. The performance of the Work under this Contract may be terminated by the City, in whole or in part, in accordance with this clause whenever the City reasonably determines that such termination is in the best interest of the City. Any such termination shall be affected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of the Work is terminated, and the date upon which such termination becomes effective.

9.4.2. If the Contract is terminated by the City as provided herein, the Contractor shall receive compensation for any Work performed and accepted, together with profit in proportion to the Work performed and accepted. The compensation shall include payment for contractual obligations reasonably incurred prior to termination. No amount shall be allowed for anticipated profit on unperformed Work.

9.4.3. In the event the City terminates the Work, in whole or in part, for cause pursuant to Section 9.2 of this Article 9 and the termination is later deemed to be unjustified, then such termination shall be automatically deemed a termination for convenience and the provisions of this Section 9.4 shall apply.

9.4.4. Termination of the Contract or portion thereof by the City for convenience shall not relieve the Contractor of its contractual responsibilities for the Work completed, nor shall it relieve the surety of its obligation for and concerning any just claim arising out of the Work completed.

9.5. Contractor's Right to Terminate Contract

9.5.1. The Contractor may terminate the Contract for any of the following reasons:

9.5.1.1. If the Work should be stopped under an order of any court of competent jurisdiction or other public authority for a period in excess of one (1) month through no act or fault of the Contractor or of anyone directly or indirectly employed by the Contractor, or for whom the Contractor is legally responsible.

9.5.1.2. If the City has failed to pay the Contractor within sixty (60) days a sum

that has been certified for payment by the City Contract Representative.

9.5.1.3. If repeated suspensions or interruptions ordered by the City pursuant to Section 9.3 total in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred twenty (120) days in any three hundred sixty-five (365) day period, whichever is less.

9.5.2. If one of the above reasons exists, the Contractor may, upon seven (7) additional days written notice to the City Contract Representative, stop Work and terminate the Contract and recover payment from the City for all Work executed and accepted by the City and any loss sustained upon any plant or materials and reasonable profit and damages.

10. CLAIMS AND DISPUTES

10.1. City Contract Representative's Resolution of Claims and Disputes; Review by Administrative Services General Manager

10.1.1. This Article relates to claims for additional compensation and any other differences between the parties arising under and by virtue of the Contract. Such claims are to be resolved at the earliest possible time and at the first responsible level so as to increase the possibility that such matters will be resolved without the vexation of litigation or other formal dispute resolution proceedings.

10.1.2. All claims, including but not limited to, claims relating to adjustments or interpretations of the Contract, payments of money, or other relief with respect to the terms of the Contract, shall be referred initially in writing to the City Contract Representative for action. The responsibility to substantiate claims shall rest with the Contractor.

10.1.3. Claims by the Contractor must be made within twenty-one (21) days after the event giving rise to the claim or within twenty-one (21) days after the Contractor first becomes aware of the condition giving rise to the claim, whichever is later.

10.1.4. Pending final resolution of a claim, the Contractor shall proceed diligently with performance of the Contract and the City shall continue to make payments in accordance with the Contract.

10.1.5. The City Contract Representative shall, within twenty-one (21) days of receipt of a claim, do one of the following:

- 1) Issue a decision either rejecting or approving the claim.
- 2) Suggest an equitable compromise of the claim.
- 3) Provide a schedule to the Contractor indicating when he expects to be able to act, which shall be within a reasonable time.

10.1.6. The City Contract Representative may require the submission of additional documentation from the Contractor to facilitate a decision.

10.1.7. The Contractor shall have ten (10) days from the date of the City Contract Representative's final decision rejecting or approving a claim, or suggesting a compromise, within which to accept or object to the decision. Failure of the Contractor to accept or object to the decision in writing within such ten (10) day period shall be deemed an acceptance of the decision. If the Contractor rejects the decision of the City Contract Representative in writing within such ten (10) day period, the matter shall be referred to the City's Administrative Services General Manager for de novo review.

10.1.8. The Administrative Services General Manager shall have sixty (60) days from receipt of a written objection by the Contractor to the City Contract Representative's final decision, or such longer period as the parties may stipulate in writing, to review the matter and issue a decision. During such period, the Administrative Services General Manager may require such additional documentation or testimony as deemed necessary to support his/her response.

11. MISCELLANEOUS PROVISIONS

11.1. Governing Law; Jurisdiction and Venue

11.1.1. This Contract shall be governed and construed according to the laws of the State of Arizona, and the Ordinances and City Code of the City of Cottonwood, Arizona. Any litigation related to this Contract and/or the subject matter hereof shall be commenced and prosecuted in the Superior Court in and for Yavapai County, Arizona.

11.2. Written Notice

11.2.1. Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last known business address known to the party giving notice.

11.3. Conflict of Interest

11.3.1. The City shall have the right to terminate this Contract pursuant to the provisions of A.R.S. Sec. 38-511 and to exercise any and all remedies provided in such statute. Without limiting the generality of the foregoing, the City may cancel this Contract if any person significantly involved in negotiating, drafting, securing or obtaining this Contract for or on behalf of the City becomes an employee of the Contractor in any capacity or a consultant to the Contractor with reference to the subject matter of this Contract.

12. CONSTRUCTION SERVICES AGREEMENT

12.1. Project and Contract Price

12.1.1. Contract Name. Installation and Start-up of one (1) Recharge Injection System at Mingus Waste Water Treatment Plant

12.1.2. Pricing. Amount not to exceed \$163,572.40

12.2. Contract Time

12.2.1. Notice to Proceed. The City Contract Representative shall issue the Notice to Proceed with the Work to be performed under this Agreement within thirty (30) consecutive calendar days, or such other mutually agreed upon time period, after execution and delivery of this Contract, except in job order contracts where a separate Notice to Proceed will be issued for each individual job order.

12.2.2. Completion Time. It is agreed that the Work to be performed under this Agreement shall be substantially completed no later than 180 consecutive calendar days after the day designated by the Contract Representative as the starting date. The Contractor agrees that said Work shall be prosecuted promptly, regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.

12.2.3. Liquidated Damages. Completion times will be specified in the Notice to Proceed. Applicable liquidated damages may be assessed for each day the Work remains incomplete (i.e., not substantially complete) after the scheduled date for Substantial Completion. This amount is agreed upon because of the impracticability and extreme difficulty of ascertaining the actual damages the City will sustain on account of late completion. If Substantial Completion does not occur within the agreed upon number of days, liquidated damages in the amount of **\$500/day** will commence on the first day after the agreed days, until Substantial Completion is achieved, as determined by the City Contract Representative.

12.3. Miscellaneous

12.3.1. Guarantee. The Contractor shall guarantee all Work under this Agreement against defects of material and Workmanship for a minimum of two years from the date of Final Completion.

12.3.2. Assignment. Neither party to this Contract shall assign the Contract as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to them hereunder without the previous written consent of the City.

12.3.3. Contract Documents. The following listed documents constitute the Contract Documents and they are all as fully a part of this Contract as if repeated herein:

- 1) Any and all Amendments.
- 2) The Contract, including this Construction Services Agreement (Article 12) and the General Conditions set forth in Articles 1 through 11 above.
- 3) Construction Specifications, including all standard, special, technical and supplementary specifications included therein and herein.
- 4) The approved Drawings and Specifications.
- 5) The Contractor's bid/proposal.
- 6) Bonds and Insurance

12.3.4. Precedence. In the event of any inconsistency between any of the terms of the documents enumerated above, such inconsistency shall be resolved by giving precedence to the terms of the above documents in the order listed. Anything in these Contract Documents to the contrary notwithstanding, the provisions of all pertinent general public laws of the State of Arizona in effect at the time of the execution of this Contract shall be a part of the Contract between the parties and shall take precedence over all other Contract Documents.

IN WITNESS THEREOF, the parties hereto have executed three (3) identical counterpart copies of this Agreement on the date and year appearing below, each of which copies shall for all purposes be deemed an original hereof.

CITY OF COTTONWOOD

CONTRACTOR

Tim Elinski, Mayor

By: _____

Title: _____

APPROVE AS TO FORM

ATTEST (If Corporation):

Steven Horton, City Attorney

Secretary

ATTEST

SEAL

Marianne Jimenez, City Clerk

FORMS

Copy of Bid Submission

City of Cottonwood, Arizona
City Council Agenda Communication



 [Print](#)

Meeting	December 6, 2022
Date:	
Subject:	Approval of Contracts for Vehicle Maintenance and Repair Services
Department:	Administrative Services
From:	Jeff Cook, Accounting Manager

REQUESTED ACTION

Approval for the multiple award of four contracts for Vehicle Maintenance and Repair Services to Eaton Automotive, Hansen Enterprises Fleet Repair LLC, Reese's Tire & Automotive Pros and Big-O Tires.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to award contracts for City Fleet Vehicle Maintenance and Repair Services to Eaton Automotive, Hansen Enterprises Fleet Repair LLC, Reese's Tire & Automotive Pros and Big-O Tires."

BACKGROUND

Staff issued a Request for Proposals on August 18, 2022 for Vehicle Maintenance and Repair Services. The solicitation was published in the newspaper in consecutive weeks and was posted on Public Purchase as well as the City website and social media outlets. Four completed proposals were received by the deadline.

The evaluation committee consisted of the Contract/Purchasing Administrator and the Transit Manager. A Police Commander provided input during the evaluation after reviewing proposals but did not officially score the proposals due to his inability to attend the shop visits.

Review and evaluations were based on the criteria established in the Request for Proposals. After the review process it was determined that a multiple award would best meet the varying needs of different City departments and would also provide a more

comprehensive selection of services to the City.

JUSTIFICATION/BENEFITS/ISSUES

A multiple award is in the best interest of the City in order to meet the varying needs from different City departments and will also provide a larger range of services available to the City. It also does not exclude local providers who are unable to meet the full needs of the City, but are still interested in providing some of the services desired.

This award includes a contract for heavy diesel maintenance and repairs for the Transit Department which will meet federal procurement requirements and replace a sole source determination for that work.

These contracts will reinstate written agreements for these services as the prior agreement for Vehicle Maintenance and Repairs has expired.

COST/FUNDING SOURCE

Vehicle Maintenance and Repairs are budgeted in each respective department's budget.

ATTACHMENTS:

File Name	Description	Type
RFP_FY23-AS-02_-_Fleet_Vehicle_Maintenance.pdf	Original Request for Proposals	Backup Material
FY23-AS-02_Vehicle_Fleet_Maintenance_Evaluation_Table.xlsx	Evaluation Table	Backup Material
Vendor_s_Site_Visit_and_Reference_Check_Evaluations.pdf	Reference Checks / Site Visit	Backup Material
12-6-22_Eaton_Automotive_Agreement.pdf	Eaton Automotive Agreement	Backup Material
12-6-22_Hansen_Enterprises_Agreement.pdf	Hansen Enterprises Agreement	Backup Material
12-6-22_Reeses_Tire_and_Automotive_Agreement.pdf	Reese's Tire And Automotive Agreement	Backup Material
12-6-22_Big_O_Tires_Agreement.pdf	Big O tires Agreement	Backup Material



City of Cottonwood, Arizona

NOTICE OF FORMAL SOLICITATION

SOLICITATION TYPE:
COMMODITY/SERVICE SOUGHT:
SOLICITATION NO.:
PROPOSAL DUE DATE AND TIME:
LOCATION:

REQUEST FOR PROPOSALS (RFP)
Vehicle Fleet Maintenance Services
FY23-AS-02
September 29, 2022, at 10:00 a.m. local Arizona time
City of Cottonwood
Administrative Services Department
Purchasing Division
821 N. Main Street
Cottonwood, AZ 86326

The City of Cottonwood is soliciting sealed proposals for the services of Vehicle Fleet Maintenance Operations. Solicitation documents are available via email by contacting the Purchasing Division at jcook@cottonwoodaz.gov or hard copies can be picked up at the City of Cottonwood, Administrative Services Department located at 821 N Main Street, Cottonwood, AZ 86326. Documents can also be obtained through the Public Purchase website at www.publicpurchase.com.

Sealed offers for the commodity or service specified will be received by the Purchasing Division, City of Cottonwood, 821 N. Main Street, Cottonwood, Arizona 86326, until the time and date cited above. Offers received by the correct time and date will be opened publicly and the name of the Proposers shall be read aloud at the Purchasing Division Office.

Offers must be in the actual possession of the Purchasing Division Office and stamped by a member of the Administrative Services staff on or prior to the exact time and date indicated above. Late submittals or unsigned submittals will not be considered under any circumstances.

Offers must be submitted in a sealed envelope with the Solicitation Number and the Offeror's name and address clearly indicated on the envelope. All offers must be completed in ink or typewritten. Additional instructions for preparing your offer are provided in the Information and Instructions to Offerors.

Please submit any questions to Jeff Cook at jcook@cottonwoodaz.gov

A portion of the funding for this contract will be from CFDA 20.509 Formula Grants for Non-Urbanized Areas, from the Federal Transit Administration and Arizona department of Transportation.

Publish Date: Verde Independent – Wednesday, August 24, 2022 and Wednesday August 31, 2022

PUBLISHERS AFFIDAVIT REQUIRED

TABLE OF CONTENTS

	<u>PAGE</u>
NOTICE OF FORMAL SOLICITATION.....	1
TABLE OF CONTENTS	2
OFFEROR’S CHECK LIST	3
INFORMATION AND INSTRUCTIONS TO OFFERORS	4
SAMPLE PROFESSIONAL SERVICES AGREEMENT	12
EXHIBIT A – SPECIFICATIONS/SCOPE OF WORK	28
EXHIBIT B - OFFER SECTION	41
EXHIBIT C – CERTIFICATE OF INSURABILITY	44
EXHIBIT D - CONTRACTOR IMMIGRATION WARRANTY	45
EXHIBIT E – NON-COLLUSION AFFIDAVIT	46
EXHIBIT F – DISCLOSURE OF RESPONSIBILITY STATEMENT.....	47
EXHIBIT G – LIST OF ACRONYMS.....	48

OFFEROR'S CHECK LIST

- ☐ 1. The offer has been signed in the Offer Section (Exhibit B). Offers not signed in this section will not be considered.
- ☐ 2. The prices offered have been reviewed. The price extensions, hourly rates, and totals have been checked.
- ☐ 3. All items listed in the Offer Section (Exhibit B) have been responded to as applicable/required (see Information and Instructions to Offer Section 4.5).
- ☐ 4. Any addendums released have been included/noted in Offer Section.
- ☐ 5. Any required drawings or descriptive literature have been included.
- ☐ 6. Certificate of Insurability (Exhibit C) has been signed and included with offer.
- ☐ 7. Contractor Immigration Warranty (Exhibit D) has been signed and included with offer.
- ☐ 8. Non-Collusion Affidavit (Exhibit E) has been signed and included with offer.
- ☐ 9. Disclosure of Responsibility Statement (Exhibit F) has been signed and included with offer.
- ☐ 10. Form W-9 (available on www.irs.gov) has been completed and included with offer.
- ☐ 11. Request for Proposal (RFP) package/envelope has been identified with Solicitation Number and title.
- ☐ 12. The mailing envelope/package has been addressed to:

Location:

City of Cottonwood
Administrative Services Department
Purchasing Division
821 N. Main Street
Cottonwood, AZ 86326

- ☐ 13. The offer is mailed in time to be received and stamped in by Purchasing representative no later than specified time on designated date (otherwise the offer cannot be considered).

INFORMATION AND INSTRUCTIONS TO OFFERORS

1. REQUEST FOR PROPOSAL (RFP)

The City of Cottonwood (City) hereby solicits qualified and interested firms (Proposer) to submit proposals for providing all supervision, labor, services, equipment, materials, and any assistance necessary to provide the City with Vehicle Fleet Maintenance Services.

The City is interested in a brief, concise proposal **not exceeding thirty-five (35) single sided pages** and must address the requirements requested by the City. The City is not interested in a “canned” proposal that is generic in nature requiring interpretation on the part of the City. Proposals not conforming to the requirements of this RFP may be disqualified. It is expected that all proposals will fit the proposed format. However, it is expected that some exceptions shall be taken by Contractors. In the case of exceptions, a separate binder must be included with the offer labeled “Exceptions” with only one (1) exception per page listed in the following format:

1. Page number of exception.
2. Section number of exception.
3. Actual language in the request.
4. Language Contractor proposes.
5. Specific language change must be underlined and highlighted.

Example:

Page 14
Section 2.5
Vehicle Preparation
Original language
Proposed language

2. GENERAL INFORMATION

- 2.1. **Due Date.** Offers must be received by City of Cottonwood Purchasing Agent, 821 N. Main Street, Cottonwood, Arizona 86326, on or before the date and time listed on the cover sheet of this solicitation. **Late Offers will not be accepted.**
- 2.2. **Purpose.** For the City of Cottonwood to obtain an updated contract for Vehicle Fleet Maintenance Services. This contract will include all necessary terms as required by the Federal Transit Administration.
- 2.3. **Late Offers.** Late submittals and/or unsigned offers will not be considered under any circumstances. Envelopes containing offers with insufficient postage will not be accepted by the City of Cottonwood (City). It is the sole responsibility of the Offeror to see that his/her offer is delivered and received by the proper time and at the proper place.
- 2.4. **[reserved]**
- 2.5. **Addendum.** This RFP may only be modified by a written Addendum. Potential Offerors are responsible for obtaining all addendums via the City’s vendor registration/notification system. See Paragraph 2.14 for registration instructions.
- 2.6. **Sealed Envelope or Package.** Each offer shall be submitted to the Purchasing Office in a sealed envelope or package. The envelope or package should be clearly identified as an offer and be marked with name of the Offeror and Solicitation Number. City may open envelopes or package to identify contents if the envelope or package is not clearly identified as specific.
- 2.7. **Offer Amendment or Withdrawal.** An offer may be withdrawn any time before the RFP due date and

time. An offer may not be amended or withdrawn after the RFP due date and time except as otherwise provided by applicable law.

2.8. Proposal Opening. Offers shall be opened on the date and time at the place designated on the Notice page of this document, unless amended in writing by the Purchasing Agent issuing the RFP. The name of each Offeror shall be read at this time. Offers, modifications and all other information received in response to the RFP shall be shown only to authorized personnel having a legitimate interest in the evaluation.

2.9. Public Record. All offers submitted in response to this RFP and all evaluation related records shall become property of City and shall become a matter of public record for review, subsequent to publication by the City Clerk of the proposed award in the agenda for the City Council Meeting or award by the appropriate approving authority or as otherwise required by law.

Request for nondisclosure of data such as trade secrets and other proprietary data, must be made known to City in offers submitted.

City will not insure confidentiality of any portion of the RFP documents that are submitted in the event that a public record request is made.

City will provide forty-eight (48) hours' notice before releasing materials identified by the Offeror as confidential or proprietary in order for the Offeror to apply for a court order blocking the release of the information.

2.10. Cost of Offer Preparation. City will not reimburse any Offeror the cost of responding to a RFP.

2.11. Persons with Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Purchasing Agent. Requests shall be made as early as possible to allow time to arrange the accommodation.

2.12. Offer Acceptance Period. All offers shall remain open for sixty (60) days after the day of the opening of offers, but the City may, at its sole discretion, release any Offeror and return the security (as applicable) prior to that date. No Offeror may withdraw his offer during this period without written permission from the City. Should any Offeror refuse to enter into a contract, under the terms and conditions of the RFP, City may retain the security (as applicable), not as a penalty, but as liquidated damages.

2.13. Term of Contract. Term of this Contract will be three (3) years with options to renew for two (2) additional one (1) year periods at the sole discretion of the Cottonwood City Council..

2.14. Vendor Registration. Vendors (Offerors) are encouraged to register via the on-line vendor registration system at www.publicpurchase.com, in order to automatically receive notification of Solicitation Addendum or notice of other solicitation opportunities. Select REGISTER OR LOG-IN NOW. A Vendor (Offeror) who is not so registered must contact the Purchasing Office to make other arrangements to receive notice of Addenda to this Solicitation. Vendors (Offerors) who submit proposals without acknowledgement of addenda may have their responses rejected.

2.15. Business Registration. The Offeror understands and agrees that, if awarded the Contract, the Offeror is required to maintain a current Business Registration with the City of Cottonwood. Applications are available on the City's website at www.cottonwoodaz.gov.

3. DESCRIPTION OF GOODS BEING PROCURED

3.1. Scope of Work. Please see the attached Scope of Work (Exhibit A) for a detailed description of the procurement.

- 3.2. **Current Products.** All products Offered in response to this Solicitation shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.
- 3.3. **New Products.** All products or services offered must be new, not previously used or owned.
- 3.4. **Brand Name.** Any manufacturer's names, trade names, brand names or catalog numbers used in the Specifications are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any Offeror but is only enumerated in order to advise potential Offerors of the requirements of the City. Any offer, which proposes equal quality, design or performance, will be evaluated.
- 3.5. **Warranty (Period of Time).** Each offer must provide a warranty/guarantee against defects in materials, workmanship and/or performance for all items.
- 3.6. **Health and Safety.** All items to be supplied hereunder by Offeror shall conform in all respects to the requirements of applicable and government health and safety regulations, including regulations administered by OSHA.

4. OFFER PREPARATION

- 4.1. **Format.** Offerors shall submit their offer with **one (1) unbound original and five (5) bound copies** and shall be submitted on the forms provided in this RFP. **BOUND SUBMITTALS SHOULD BE BOUND BY BINDER CLIP AND SHOULD CONSIST OF PAPER ONLY. ALL BINDERS, PLASTIC SEPARATORS, NON-RECYCLABLE MATERIAL, ETC., ARE DISCOURAGED. SUBMITTALS WILL NOT BE EVALUATED ON THE AESTHETIC OF THE PACKAGE.**
- 4.2. **No Facsimile or Electronic Mail Offers.** Offers may not be submitted in facsimile or electronically. A facsimile or electronic mail offer shall be rejected.
- 4.3. **Typed or Ink Corrections.** The offer shall be typed or in ink. Erasures, interlineations or other modifications in the offer shall be initialed in ink by the person signing the offer.
- 4.4. **No Modifications.** Modifications shall not be permitted after offers have been opened except as otherwise provided under applicable law.
- 4.5. **Content.** The Offer Section (Exhibit B) shall contain all of the following information:
 - 4.5.1 **Description.** Brief description of the Offeror, including legal organization. Include name, address and location of the firm's principle and local office.
 - 4.5.2 **Tax ID Number.** Offeror must provide its Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided in the Offer Section.
 - 4.5.3 **Licenses.** Offeror must list all applicable licenses and numbers in the Offer Section.
 - 4.5.4 **Exceptions to RFP.** Any exceptions to the RFP or Contract terms must be included with the offer and submitted on the 'Exceptions to RFP' area in Offer Section (Exhibit B) or equivalent in which the Offeror clearly identifies the specific objection and/or exceptions. Failure to list an exception or objection shall preclude a request for changes to the specifications or Contract language. The proposed form of Contract is included as a part of this RFP. The offer must include a statement that the Offeror has reviewed the specifications and Contract and list any objections to them. Any objections to specifications or the form of Contract will be considered and included in City's evaluation of the offer. If Offeror fails to list any objections to the specifications or form of

Contract, Offeror will not be allowed to raise any objections later if selected for award. An offer that takes exception to a material requirement of any part of the RFP, specifications or form of Contract, shall be rejected as non-responsive.

4.5.5 Disclosure. If the firm, business or person submitting this offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the offer. The Offeror shall include a letter with its offer setting forth the name and address of the governmental entity, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

4.5.6 Prices. Labor rates shall be listed in the Offer Section (Exhibit B) and shall include any and all applicable costs. A price matrix shall be attached that details the percentage markup on parts and supplies required for maintenance and repairs on City vehicles.

4.5.7 Turnaround Time. Offeror will propose repair/scheduled maintenance times prioritized for public safety vehicles first, all other vehicles and equipment second.

4.5.8 References. The Offeror shall list at least three (3) references of other agencies to which the Offeror has supplied similar goods or services, including names, addresses and telephone numbers. The City reserves the right to only contact references from firms deemed as reasonably susceptible of receiving a contract award.

4.5.9 Solicitation Addendum Acknowledgement. Each Solicitation Addendum shall be acknowledged in the Offer Section (Exhibit B), which shall be submitted together with the offer on the offer due date and time. Failure to note a Solicitation Addendum may result in rejection of the offer.

4.5.10 Evidence of Intent to be Bound. The Offer Section (Exhibit B) within the RFP shall be submitted with the offer and shall include a signature by a person authorized to sign the offer. The signature shall signify the Offeror's intent to be bound by its offer and the terms of the solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of intent to be bound, such as an original signature, shall result in rejection of the offer.

4.6 Insurance. The Offeror shall submit the enclosed Certificate of Insurability (Exhibit C) with their offer to the City.

The Offeror shall agree to carry all insurance which may be required by Federal and State laws, County and City ordinances, regulations and codes in the amounts specified below and shall keep such insurance coverage in force throughout the life of the Contract.

	Minimum Requirements
Worker's Compensation	Statutory Requirements
General Liability	\$1,000,000 per Occurrence
	\$2,000,000 Aggregate
Products/Completed Operations	\$1,000,000 per Occurrence
Automobile Liability	\$1,000,000 per Occurrence

The successful Offeror must furnish to the City with Certificates of Insurance showing the types and amounts of insurance coverage required by the City, including endorsements naming the City as an additional insured, and waiving subrogation against the City.

The successful Offeror's insurance is primary and non-contributory as to any claims resulting from the Contract.

These policies shall not expire within the term of this Contract. If a policy does expire during the term of the Contract, a renewal Certificate of the required coverage must be sent to the City of Cottonwood not less than ten (10) days prior to the expiration date. All policies shall contain an endorsement providing that written notice be given to the City in the event of policy termination, cancellation, non-renewal, or reduction of coverage on any policy. Neither the successful Offeror nor any subcontractor shall commence work under a Contract until the City has approved the insurance. The entire project covered by the Contract shall be at the successful Offeror's risk until final acceptance by the City.

- 4.7 Indemnification.** To the fullest extent permitted by law, the Offeror shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Contractor, its agents, employees, or any tier of Contractor's subcontractors in the performance of this Agreement. The insurance requirements listed above will not be construed as limiting the scope of this indemnification.
- 4.8 Financial Statement.** The Offeror shall furnish, upon request, two (2) copies of the Offeror's most recent financial statement and/or other evidence of his qualifications as may be requested by City. If an Offeror fails to furnish in a timely manner the information requested, it shall be considered sufficient grounds for rejection of such Offeror's entire offer. A financial statement must be notarized by a Notary Public licensed in the Applicant's state of business.
- 4.9 Contractor Immigration Warranty.** The Offeror shall sign and submit the enclosed Contractor Immigration Warranty (Exhibit D) with their offer to the City.
- 4.10 Non-Collusion Affidavit.** The Offeror shall submit the enclosed Non-Collusion Affidavit (Exhibit E) with their offer to the City.
- 4.11 Disclosure of Responsibility Statement.** The Offeror shall sign and submit the enclosed Disclosure of Responsibility Statement (Exhibit F) with their offer to the City.
- 4.12 IRS Form W-9.** The Offeror shall submit a completed Form W-9 (available on the IRS website at www.irs.gov) with their offer to the City.
- 4.13 Non-Discrimination.** By signing and submitting the offer, the Offeror certifies that the Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, age, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.
- 4.14 Taxes.** The Offeror understands that the Offeror will be responsible for and shall pay all sales, consumer, use, and other taxes. When equipment, materials or supplies generally taxable to the Offeror are eligible for a tax exemption due to the nature of the item, the Offeror shall assist City in applying for and obtaining such tax credits and exemptions which shall be paid or credited to City.

5. INQUIRIES

- 5.1 Duty to Examine.** It is the responsibility of each Offeror to examine the entire RFP, seek clarification (inquiries), and examine its offer for accuracy before submitting the offer. Lack of care in preparing an

offer shall not be grounds for modifying or withdrawing the offer after the offer due date and time, nor shall it give rise to any Contract claim.

- 5.2. **Contact Person.** Any inquiry related to the RFP, including any requests for or inquiries regarding standards referenced in the RFP should be directed solely to the Purchasing Agent listed on the cover page of the RFP. The Offeror shall not contact or direct inquiries concerning this RFP to any other City employee unless the RFP specifically identifies a person other than the Purchasing Agent as a contact.
- 5.3. **Submission of Inquiries.** All inquiries shall be submitted in writing or email and shall refer to the appropriate Solicitation Number, page and paragraph. Do not place the Solicitation Number on the outside of the envelope containing that inquiry, since it may then be identified as an offer and not be opened until after the offer due date and time. The City shall consider the relevancy of the inquiry but is not required to respond in writing.
- 5.4. **Timeliness.** Any inquiry or exception to the RFP shall be submitted as soon as possible and should be submitted no later than seventy-two (72) hours before the offer due date and time for review and determination by the City. Failure to do so may result in the inquiry not being considered for a Solicitation Addendum.
- 5.5. **No Right to Rely on Verbal Responses.** An Offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the RFP.

6. EVALUATION

- 6.1. **Disqualification.** An Offeror (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity may have its Offer rejected.
- 6.2. **Clarifications.** The City reserves the right to obtain Offeror clarifications where necessary to arrive at full and complete understanding of Offeror's product, service, and/or solicitation response. Clarification means a communication with an Offeror for the sole purpose of eliminating ambiguities in the Offer and does not give Offeror an opportunity to revise or modify its Offer.
- 6.3. **Waiver and Rejection Rights.** The City reserves the right to reject any or all offers or to cancel the solicitation altogether, to waive any informality or irregularity in any Offer received, and to be the sole judge of the merits of the respective Offers received.
- 6.4. **Taxes.** All applicable taxes stated in the offer shall not be considered by the City when determining the lowest bid or evaluating proposals.
- 6.5. **Evaluation Criteria.** The evaluation criteria are listed below in their relative order of importance. The Offeror's submittal should be organized/submitted by criteria.
 - 6.5.1. **Cost.** Cost shall include hourly rate for repairs, and the hourly rate of overtime repairs. A price matrix shall also be included detailing the percentage of markup for parts and supplies.
 - 6.5.2. **Approach to Requested Proposal.** Description of approach to the City's need for a turnkey fleet vehicle maintenance solution. Turnaround time will be considered in this criterion (see Specifications/Scope of Work, Requirements, Section D).
 - 6.5.3. **Location.** List the location of the proposed facility, its principal maintenance and safety features (number of bays, lube racks, lifts, special equipment, etc.)
 - 6.5.4. **References.** Submit a minimum of three (3) references (public or private sector) listing the name and contact information of the reference's principal and the duration of previous or currently held contracts. References will be contacted and scored by one City representative.

6.5.5. Site Visit. Inspection of the proposed facility and its operations will be conducted and scored by one City representative. Items to be observed include, but are not limited to, shop organization, cleanliness, availability of ASE Certifications, vehicle lift GVW ratings and site security.

6.5.6. Vehicle Information Database. Whether or not the Offeror has a computerized records management system accessible by the City that contains the vehicle maintenance data and the ability of the system to import and export vehicle maintenance files.

6.6. Discussion with Responsible Offerors and Revision to Proposal. Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The purposes of such discussions shall be to:

6.7.1 Determine in greater detail such Offeror's qualifications;

6.7.2 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;

6.7.3 Determining that the offeror will make available the necessary personnel and facilities to perform within the required time;

6.7.4 Agreeing 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.

7. AWARD

7.1. Award. Award shall be made to the Offeror(s) deemed most advantageous to the City based upon the listed evaluation criteria.

7.2. Multiple Awards. In order to assure that any ensuing contracts will allow City to fulfill current and further requirements, City reserves the right to award contracts to multiple Offerors. The actual utilization of any contract will be at the sole discretion of City. The fact that City may make multiple awards should be taken into consideration by each Offeror.

7.3. Execution of Contract. Within ten (10) days of notice that Offeror is the recommended awardee, the Offeror shall execute and return the original Contract to the Purchasing Agent.

7.4. Award Criteria.

Criteria	Points
Cost (annual)	25
Approach to requested proposal	25
Location	15
References	15
Site Visit	15
Vehicle Information Database	5
Maximum points possible	100

8. PROTESTS

8.1. A protest must be in writing and be filed with the Purchasing Office. A protest of a solicitation shall be received before the solicitation opening date. A protest of a proposed award must be filed before City Council meeting at which the recommendation will be presented. The City shall determine whether to issue a written response or hold an administrative hearing.

8.2. A protest must include:

- The name, address and telephone number of the protester.
- The signature of the protester or its representative.
- Identification of the project and the Solicitation or Contract Number.
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents.
- The form of relief requested.

9. COMMENTS WELCOME

The City's Purchasing Office periodically reviews the Information and Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: City of Cottonwood, Purchasing Agent, 821 N. Main Street, Cottonwood, AZ 86326.

SAMPLE PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this _____ day of _____, 20____, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and _____, (the "Contractor").

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Contractor hereby agree as follows:

- A. Term of Agreement.** The initial term of this agreement shall be three (3) years following approval by the City Council. The City of Cottonwood may extend this contract for up to two (2) additional one (1) year periods at the sole discretion of the Cottonwood City Council.
- B. Scope of Services.** The Contractor shall provide the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- C. Compensation.** The City shall pay the Contractor for the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein, at the rates as set forth in the Offer Section, marked as Exhibit B and incorporated by reference herein.
- D. Payments.** The City shall pay the Contractor subject to the Contractor submitting monthly invoices to the City for each requested payment. Invoices shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- E. Insurance.** The Contractor shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Contractor shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood
Risk Manager
821 N Main Street
Cottonwood, AZ 86326
Telephone: (928) 340-2717 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Contractor's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail

to the City of Cottonwood Risk Manager. The Contractor's insurance must be primary, and any insurance or self-insurance maintained by the City shall be non-contributory. If any part of this Contract is subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

1. **Commercial General Liability** insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract.
2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Contractor's owned, hired, and non-owned vehicles.
3. **Worker's Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.
4. **Garage Keepers Liability** insurance with a minimum single limit of not less than two hundred fifty thousand dollars (\$250,000) per occurrence.

F. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Contractor, its agents, employees, or any tier of Contractor's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.

G. Applicable Law; Venue. In the performance of this Agreement, the Contractor shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

1. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, the Contractor shall be paid for all undisputed services performed to the termination date.
2. **For Cause.** This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.
3. **Due to Work Stoppage.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

4. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party of the Agreement with respect to the Agreement's subject.
5. **Gratuities.** The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor an amount equal to one hundred fifty percent (150%) of the gratuity.
6. **Fund Appropriation Contingency.** The Contractor understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

1. **Independent Contractor.** The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Contractor meets the requirements of its agreed scope of work as set forth in Section 2 above. The Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
2. **Laws and Regulations.** The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
3. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
4. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
5. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other

provision or application of the Agreement which may remain in effect without the invalid provision or application.

6. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.
7. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
8. **Assignment.** No right or interest in this Agreement shall be assigned by the Contractor without prior, written permission of the City and no delegation of any duty of the Contractor shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Contractor in violation of this provision shall be a breach of this Agreement by the Contractor.
9. **Subcontracts.** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used.
10. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as 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 this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
11. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
12. **Liens.** All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
13. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or

certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Contractor: _____	City of Cottonwood (Owner)
c/o _____	c/o _____
_____	_____
_____	_____

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

- 14. Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Contractor as needed for the performance of duties under this Agreement.
- 15. Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in 9.13. Within ten (10) days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
- 16. Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.
- 17. Compliance with Federal Immigration Laws and Regulations.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and

complies with A.R.S. § 23-214.A. Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

18. [Reserved]

Federal Transit Administration Requirements

A portion of the funding for this contract will be from CFDA 20.509 Formula Grants for Non-Urbanized Areas, from the Federal Transit Administration and Arizona department of Transportation.

- 19. Charter Bus Requirements.** Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and sub recipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
- 20. Energy Conservation.** Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.
- 21. Clean Water.** All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
- 22. Lobbying.** Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

- 23. Access to Records and Reports.** The following access to records requirements apply to this Contract:

Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307,

5309 or 5311.

Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

24. **Federal Changes.** Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.
25. **Clean Air.** Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
26. **Contract Work Hours & Safety Standards Act.** Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

- 27. No Government Obligation to Third Parties.** The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- 28. Program Fraud and False or Fraudulent Statements or Related Acts.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
- 29. Government Wide Debarment and Suspension (Non Procurement).** The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of

the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, 2 U.S. OMB, “Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA “System for Award Management,” <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the “System for Award Management” at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

- 30. Civil Rights Requirements.** The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service: a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute): (1) FTA’s “Nondiscrimination” statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program, b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued, c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246, Relating to Equal Employment Opportunity,” 42 U.S.C.

§ 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation, e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, f. Nondiscrimination

on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance, h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2, i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English

Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005, j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination. k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

- 31. Breaches and Dispute Resolution.** Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient’s authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient’s CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient’s CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 32. Disadvantaged Business Enterprise.** a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Arizona DBE goal is 3.82% race neutral. The recipient’s overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere. b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor’s work related to this contract is satisfactorily completed or must return any retainage

payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work. f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

33. **Prompt payment.** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.
34. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.
35. **Drug and Alcohol Abuse and Testing.** The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), " 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.
36. **Other Federal Requirements.** The following requirements are not federal clauses.
37. **Full and Open Competition.** In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.
38. **Prohibition Against Exclusionary or Discriminatory Specifications.** Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.
39. **Conformance with ITS National Architecture.** Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
40. **Access Requirements for Persons with Disabilities.** Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor

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

41. **Notification of Federal Participation.** To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.
42. **Interest of Members or Delegates to Congress.** No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.
43. **Ineligible Contractors and Subcontractors.** Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.
44. **Other Contract Requirements.** To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.
45. **Compliance with Federal Regulations.** Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
46. **Real Property.** Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
47. **Access to Services for Persons with Limited English Proficiency.** To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.
48. **Environmental Justice.** Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898,

“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

49. **Environmental Protections.** Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.
50. **Geographic Information and Related Spatial Data.** Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.
51. **Geographic Preference.** All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).
52. **Catalog of Federal Domestic Assistance (CFDA) Identification Number.** The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.
53. **CFDA number for the Federal Transportation Administration.** A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
54. **Compliance with Regulations.** The SUBRECIPIENT shall comply with the regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (USDOT), 49 CFR 21 and Executive Order 99-4, as they may be amended from time to time, which is herein incorporated by reference and made a part of the Agreement.
55. **Nondiscrimination.** The SUBRECIPIENT, with regard to the work performed by it during the Agreement will not discriminate on the grounds of race, color, disability, sex, or national origin in the selection and retention of contractors and subcontractors, including procurement of material and leases of equipment. The SUBRECIPIENT will not participate either directly or indirectly in discrimination prohibited by 49 CFR 21.5, including employment practices when the Agreement covers a program set forth in Appendix A of 49 CFR part 21.

- 56. Solicitations for contractors, including procurement of real property, materials, and equipment.** In all solicitations made by competitive bidding or negotiation by the SUBRECIPIENT for work to be performed under a contract or subcontract, including procurement of real property, materials, and purchase or lease of equipment, each potential contractor, subcontractor, supplier, or lessor shall be notified by the SUBRECIPIENT of the SUBRECIPIENT's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, disability, sex, or national origin. Any contract or agreement established shall contain the language from this Agreement's Appendix A and B, and where appropriate, Appendix C.
- 57. (4) Information and Reports.** The SUBRECIPIENT shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by ADOT, FHWA, and FTA to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of the SUBRECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, the SUBRECIPIENT shall so certify to ADOT, FHWA, and FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 58. (5) Sanctions for Non-Compliance.** In the event of the SUBRECIPIENT's non-compliance with the non-discrimination provisions of this Agreement, ADOT shall impose such sanctions as it, FHWA and FTA determine to be appropriate, including, but not limited to: withholding of payments to the SUBRECIPIENT under the Agreement until the SUBRECIPIENT complies, and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

Contractor

Company Name

Printed Name

Signature

Date of Signing

Title

City of Cottonwood

Tim Elinski, Mayor

Date of Signing

Attest:

Marianne Jiménez, City Clerk

Approved as to form:

Steve Horton, City Attorney

EXHIBIT A

SPECIFICATIONS / SCOPE OF WORK

SPECIFICATIONS

The City of Cottonwood (City) is soliciting firms to provide vehicle fleet maintenance operations **on all or a part** of the City's fleet vehicles. Maintenance will include:

- A. All routine scheduled maintenance per the manufacturers' recommended schedule (See Special Conditions).
- B. All warranty work for vehicles with existing warranty must be completed by the appropriate factory dealer.
- C. All evaluation of newly acquired vehicles and equipment.
- D. All unscheduled repairs.
- E. All requested work (prices to be quoted separately from proposed annual costs).

REQUIREMENTS

- A. All mechanics must be ASE (Automotive Service Excellence) certified and will maintain certification during the contract period. No uncertified mechanics will be allowed without prior written permission from the City. If mechanics are not certified to work on specialized equipment on City vehicles, the City may take vehicles to a mechanic who is certified to perform that specific task, **but only after written documentation from Contractor is obtained stating that the Contractor does not perform that type of work or cannot in a timely manner.**
- B. The Contractor will propose a cost for all work by an hourly rate and an overtime rate.
- C. All parts used in scheduled or unscheduled maintenance will be at a discount from a national chain of original equipment manufacturer (OEM) and/or aftermarket parts provider (i.e., NAPA, AutoZone, CARQUEST, etc.). Provider must state discount percentage with the Request for Proposals (RFP) response.
- D. Turnaround time: Contractor will propose repair/scheduled maintenance times prioritized for public safety vehicles first, all other vehicles and equipment second.
- E. Contractor must be capable of providing basic maintenance for specialized equipment such as construction equipment, electronics for police lights and radios, etc. and/or making recommendations for possible outsourcing of items beyond their capabilities.
- F. All overtime must be authorized by the City in advance of transportation, repair or maintenance. The hourly overtime rate as stated in the proposal shall be used. Other costs of this service will be negotiated with the Contractor.
- G. The City will have full and complete access to monitor and audit operations, bookkeeping, and parts inventories.
- H. Contractor may, at their option, evaluate City vehicles prior to proposal opening. The City will make inspection opportunities available.
- I. Contractor will supply a safe, suitable facility, all fixed equipment (lube racks, etc.) shop supplies and allow safety inspections by the City. **To perform certain maintenance tasks on some Transit Buses and other large heavy diesel vehicles, the Contractor must be able to service vehicles up to 35' in length and 26,000 lbs. GVW.** The City will incur no liability for shop accidents or accidents occurring

during transportation or testing, or any other vehicle/equipment operations. The Contractor must be willing to accept the City's indemnification terms and hold the City harmless from any incidents or accidents arising in shop or testing operations.

- J. Contractor must be bonded and insured and shall remain bonded and insured during the term of the Contract and any and all Contract extensions as per the Information and Instructions to Offerors.
- K. The City, at its discretion, may prioritize the sequence of vehicles scheduled for maintenance or repair. The City will provide prioritization as required.
- L. Contractor must have secure storage space for vehicles awaiting parts or repair.
- M. Contractor must be able to perform scheduled maintenance.
- N. Contractor will dispense fluids and lubricants from fifty-five (55) gallon drums as opposed to quart or gallon containers when the cost of doing so is beneficial to the City.
- O. Contractor must request and receive permission from the City if any City-owned equipment is sent offsite for work that is beyond the capability of the Contractor (i.e., radios, CAD systems, radar and license plate reading equipment, bus ramps, etc.).
- P. If a vehicle or equipment is outsourced for repair or parts, the Contractor will bill the City not more than an agreed upon percentage of markup for parts, labor and shipping/transportation.
- Q. Contractor will provide all tools. If the City owns any equipment-specific tools, they will be made known and available to the Contractor. Depending on the cost to the City, special tools, TMDE (Test, Measurement and Diagnostic Equipment) may be loaned, rented or leased to the Contractor.

SPECIAL CONDITIONS

- A. **Term of Contract:** Term of this Contract will be three (3) years with options to renew for two (2) additional one (1) year periods at the discretion of the City.
- B. **Introduction:** The City of Cottonwood (City) is requesting proposals from experienced and qualified firms for the maintenance of the City's vehicle and equipment fleet. The awarded Contract(s) shall be for a three (3) year period with options to renew for two (2) additional one (1) year periods. **The City desires to obtain multiple providers** for various fleet maintenance services. The contracted provider shall determine if any work is beyond their capability and therefore should be outsourced.
- C. **Description of Government:** The City of Cottonwood is located in the center of the State of Arizona and provides a full spectrum of municipal services including public safety, parks and recreation, streets and highways, public improvements, water, wastewater treatment, storm water utilities, libraries and general administration services. The City is managed under a Mayor and Council form of government consisting of a Mayor, Vice Mayor and five (5) Council Members.
- D. **Format:** The City is interested in a brief, concise proposal not exceeding thirty-five (35) single sided pages and must address the requirements requested by the City. Proposals not conforming to the requirements of this RFP may be disqualified. It is expected that all proposals will fit the proposed format. However, it is expected that some exceptions shall be taken by Contractors. In the case of exceptions, a separate binder must be included with the offer labeled "Exceptions" with only one (1) exception per page listed in the following format:
 - 1. Page number of exception.
 - 2. Section number of exception.

3. Actual language in the request.
4. Language Contractor proposes.
5. Specific language change must be underlined and highlighted.

Example:

Page 14
Section 2.5
Vehicle Preparation
Original language
Proposed language

- E. Vehicle Assessment:** If needed, the Contractor shall conduct an assessment of currently owned vehicles and equipment in order to establish a baseline for vehicle/equipment condition and/or make recommendations to bring vehicles/equipment up to proper working condition. Assessments shall be billed at the contracted hourly rate.

Upon request by the City, the Contractor shall conduct an assessment of newly acquired vehicles and equipment for service. Assessments shall be billed at the contracted hourly rate.

Vehicle assessment shall include (but not be limited to):

- 1) Headlights.
 - a) high beam
 - b) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.
- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) All interior lights.

- 17) Fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Battery, charging system, terminals and cables and battery box.
- 19) Heating and air conditioning systems.
- 20) Frame, cross members and body joints.
- 21) Operation of the engine starting system circuit.
- 22) Drive shaft, U-joints, CV joints and boots.
- 23) Fuel, oil, coolant or other fluid leaks.
- 24) Air and emission filters and valves.
- 25) Hoses, clamps and belts.
- 26) Operation of all gauges.
- 27) All grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Engine oil and filter.
- 29) Tires.
- 30) Body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Air filter.
- 32) Items included in tune up.
- 33) Brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as required.
- 34) Perform road test to detect any deficiencies.

SCOPE OF SERVICES

- A. The Contractor shall provide preventive, maintenance, remedial repairs/overhaul, minor repairs from accidents, misuse, abuse or vandalism, welding, fabrication, and all motor services currently outsourced by the City.

The Contractor shall furnish all required supervision, labor, tools (specialty and hand tools), TMDE, parts, supplies and materials to maintain the fleet in a state of repair and service consistent with generally accepted fleet practice and as defined in this RFP. The successful Contractor shall supply their own equipment (including vehicles), fuel, and maintenance for road services, parts running, etc. Additionally, the Contractor must provide a fully staffed maintenance operation for a minimum of Monday – Friday from 8:00 AM to 5:00 PM each week.

It is understood that not all providers will be able to service the entire City fleet. It is the City's intention to award agreements to multiple shops. Please note in proposals what type/kind of services your firm is able to provide under an agreement resulting from this procurement.

1. Preventive Maintenance

It is the responsibility of the Contractor to implement a preventive maintenance (PM) program to service City vehicles. Preventive maintenance shall be defined as scheduled routine inspection, servicing, repair and replacement of equipment components on a regular basis to facilitate

operations with a minimum of downtime. The PM program shall be presented in detail in the proposal and shall be designed in accordance with recognized good fleet management practice and meet or exceed the terms and conditions required to comply with the OEM specifications. The proposed PM shall at a minimum, include the specifications outlined herein but is subject to modification upon mutual agreement of the city and the awarded Contractor. It is therefore critical that each proposal be submitted exactly as explained below. All management functions of the fleet shall remain with the City unless exceptions are noted below. Non-conforming proposals may be eliminated.

2. Preventive Maintenance Program

Preventive maintenance shall be performed on City vehicles and equipment.

3. Preventive Maintenance Scheduling

Preventive maintenance shall be scheduled on a usage basis with calendar time override. That is, each Contract vehicle and piece of equipment shall be scheduled for preventive maintenance based on a usage limitation (miles or hours) or time since the last PM, whichever comes first. (CAT/LYNX buses have their own PM Schedules based on miles and compliant with ADOT/FTA/DOT regulations). The Contractor shall complete and file an “inspection form” approved by the City for each PM performed on each vehicle and piece of equipment.

It shall be the City responsibility to develop and implement a PM scheduling system that provides immediate notification to the City’s operating departments when PMs are scheduled for vehicles and equipment. This schedule shall provide for three (3) days advance notice of scheduled service. The Contractor’s Site Manager shall work with the City Contract Manager to schedule actual dates of service.

4. Preventive Maintenance Performance

The timely performance of preventive maintenance is the responsibility of the Contractor for all vehicles and equipment. The only authorized exception to this section shall be when a vehicle or piece of equipment fails to be presented by the operating department. In such an instance, written notification shall be provided to the City detailing dates, times, department, vehicle number, and name of the department manager notified so that the City may address the problem.

5. Preventive Maintenance Intervals

Preventive maintenance services and service intervals shall meet all specifications listed in Section 10 or exceed OEM recommendations for such service. The program is subject to modification upon mutual agreement of the City and the awarded Contractor.

6. Preventive Maintenance Scheduling for New Equipment

As part of placing in service newly acquired vehicles and equipment, the Contractor’s Site Manager and the City shall jointly review and establish the proposed PM schedule to be specifically followed for that vehicle or piece of equipment.

7. Preventive Maintenance Oil Analysis Program

Upon the City’s request, the Contractor shall provide an oil sampling program for use as a diagnostic aid in determining service levels, repairs and intervals along with adjusting vehicle replacement schedules. The oil sampling program shall include but not be limited to the following:

- a. All diesel and auxiliary engines.

- b. Hydraulic systems for personnel aerial lift devices, boom trucks, ladder trucks, etc., exclusive of hydraulic brake systems.
- c. All construction equipment so designated by the City and agreed to by the Contractor, which may or may not fall into the range of equipment designated above.

Any requested oil sampling services shall be billed at the contracted hourly rate.

8. Preventive Maintenance Coolant Analysis Program

Upon the City's request, the Contractor shall provide a coolant sampling program for use as a diagnostic aid in determining coolant/filter change intervals along with detection of engine cooling problems. This program is to include all liquid cooled engines.

Any requested coolant system analysis services shall be billed at the contracted hourly rate.

9. Personal Lift Device Inspection and Certification

The Contractor shall develop and implement an annual program for the inspection and certification of all City owned personal lift devices in accordance with state, Federal or local standards. The inspections shall be completed by a certified inspector hired by the Contractor once per year. Each fifth year the vehicle shall be transported to the manufacturer's distributor or City approved vendor for its five (5) year inspection and rebuild as required. A written report of findings, corrective actions taken and certification shall be provided to the City, Risk Manager and operating department. Additionally, a copy shall be included in the individual equipment vehicle files maintained by the Contractor for the City. The Contractor shall be responsible for the certification and cost of the certification including mandatory rebuilds of these devices included in the contract cost.

10. Preventive Maintenance (PM) Schedule

Preventive Maintenance (PM) shall be performed according to manufacturer's requirements. The items listed below shall also be performed at each PM.

Safety checklist: The following items must be inspected at every PM:

- 1) Headlights.
 - c) high beam
 - d) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.

- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) Inspect all interior lights.
- 17) Inspect fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Inspect battery, charging system, terminals and cables and battery box.
- 19) Inspect heating and air conditioning systems.
- 20) Inspect frame, cross members and body joints.
- 21) Inspect operation of the engine starting system circuit.
- 22) Inspect drive shaft, U-joints, CV joints and boots.
- 23) Inspect any fuel, oil, coolant or other fluid leaks.
- 24) Inspect air and emission filters and valves as needed.
- 25) Inspect hoses, clamps and belts.
- 26) Inspect operation of all gauges.
- 27) Inspect all grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Inspect engine oil and filter.
- 29) Inspect tires as required.
- 30) Inspect vehicle for body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Inspect air filter as necessary. Must be completed at a minimum of twelve (12) months or 12,000 miles whichever occurs first.
- 32) Inspect brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as needed to ensure proper functioning. **NOTE:** Every brake job shall include a new brake hardware kit including springs, hold downs, rollers, etc.
- 33) Perform road test and correct any deficiencies.

a. Tractors / Heavy Equipment / Diesel / Specialty Equipment

Tractors (farm type), fire trucks, diesel powered equipment, and other heavy/specialized equipment **may be excluded from this agreement as determined by the City.**

b. Trailers

Light Duty Trailers (up to one ton) - conduct a semi-annual safety inspection, complete lubrication, repack wheel bearings and repair as required.

Heavy Duty Trailers (exceeding one ton) - provide quarterly safety inspections and complete repair and lubrication including operation of any attachments such as winches, ramps, gates, etc., in accordance with Federal Motor Carrier regulations.

c. Ancillary Services

1) Quick Fix

The Contractor will provide a quick fix solution for repairs of less than one (1) hour duration. This service shall be offered at all times during normal hours of business operation as part of the Contract cost. Typical quick fix repairs may include but are not limited to lights, wiper blades, battery replacements, etc.

2) Parts

The Contractor shall be responsible for purchasing and maintaining the entire parts and supplies inventory for all commonly used parts, lubricants, tools and operating supplies (hereafter “parts”) that are required for preventive maintenance services. All parts shall meet or exceed OEM specifications. The Contractor shall manage the inventory consistent with good inventory management practices.

The Contractor shall set inventory levels in a realistic manner to support the number and type of vehicles operated by the City. The City shall have oversight of inventories and may adjust quantities up or down. The City reserves the right to reject parts not meeting OEM specifications.

If the Contract is severed prior to the end of the Contract period, the City will purchase the remaining inventory from the Contractor at the actual cost paid. Therefore, it is imperative that the Contractor maintain an accurate accounting of inventory value at all times during the term of the Contract.

3) Training

The Contractor shall provide continuous training for his/her employee. The City shall be made aware of all training. Systems included on CATS/LYNX Buses should be considered in regards to contractor’s employee training.

4) Re-Repair

Re-repair is the repair of the same failure within the warranty period due to parts failure, mis-diagnosis or mechanic error. The Contractor shall track and identify re-repair work and shall not include the cost of re-repairs, parts, labor or supplies in the monthly statement.

1) Misuse, Abuse or Negligence of Equipment

The City wishes to have any knowledge of equipment misuse, abuse or negligence by its employees. The Contractor shall be required to submit suspected reports of misuse, abuse or neglect to the City in any case where evidence provides reasonable cause to suspect misuse, abuse or negligence. The Contractor will inform the City via email or telephone immediately, followed by a written report.

2) Welding and Fabrication

Welding and fabrication are integral parts of fleet maintenance operations and all costs including welding rod, wire, supplies, protective clothing and equipment and all materials (steel aluminum, etc.) are the responsibility of the Contractor. All welding and fabrication requirements as part of repairs shall be performed at all times during the term of the Contract period.

Welding and fabrication required as part of repairs shall be billed at the contracted hourly rate.

3) Fleet Management Information System

The Contractor shall own and provide the Fleet Management System. It will be operated by the Contractor and 100% access to the City's records shall be available to the City with unrestricted access at all times via the internet.

4) Fleet Management Reporting Requirements

The Contractor shall provide the City or designee access at all times to electronic data, books, records, correspondence, instructions, plans, drawings, receipts, invoices, vouchers and memoranda of every description, pertaining to the work under the Contract for the purposes of audit and verification of work performed.

The information system shall provide records on all repairs and services performed for each vehicle and piece of equipment. Under no circumstances shall the originally assigned City equipment number be changed or altered and all record entries shall utilize the original vehicle/equipment number. All previous history with the vehicles and equipment shall remain intact with the originally assigned City equipment number. The Contractor shall enter daily, all repair work order data including labor, contracted services, parts transactions, fuel charges and other data deemed necessary by the City. The Contractor shall provide work orders, PM inspection reports and other special forms necessary for meeting the requirements of this Contract.

At the termination of the contract, the Contractor shall provide a digital record of all vehicles detailing the services provided for each vehicle. This record must be in a format that can be utilized by the City and/or another maintenance provider.

5) Files

The Contractor shall maintain a complete file of service manuals, service bulletins, lubrication charts and other information necessary to properly service all City vehicles and equipment. A computer database is sufficient to meet this requirement.

A history shall be maintained by the Contractor for each City vehicle and piece of equipment. This folder shall contain, in chronological order, all work orders generated specific to the vehicle or equipment, correspondence of any nature pertaining to the vehicle or equipment such as manufacturer's recall orders or service bulletins and memoranda pertaining to service and repairs. Additionally, all vehicle and equipment folders shall contain information such as make, year, model, vehicle identification number (VIN) and a spare set of keys where applicable.

6) Outside Repairs

The Contractor shall be responsible for arranging and managing the conduct of outside repairs which cannot be economically performed in house and shall be responsible for continuing review of the need for specific outside repairs as opposed to performing such work in house. These outside repairs may include transmission overhaul and repair, radiator repair, engine overhaul and repair, hydraulic system

repair or overhaul, major equipment overhaul or repair and other such works orders done to minimize the City's down time. Outside repairs shall be discussed with the City to ensure the outside versus inside repair decision remains justified. All responsibility, paperwork, invoicing, quality control, vehicle movement to and from outside repair facilities, costs, vehicle security, etc., shall be the responsibility of the Contractor and part of the Contract cost.

7) Subcontracting

The Contractor may subcontract services with prior approval of the City. No such approval shall be construed as making the City a party of or to such subcontract or subject the City to liability of any kind to the subcontractor. No subcontract of any kind shall under any circumstance, relieve the Contractor of its liability and obligation under the Contract and despite any subcontract, the City shall deal through the Contractor and subcontractors shall be dealt with as workmen and representatives of the Contractor.

The City reserves the right to request more than one (1) proposal for any subcontract work and shall have the right to approve or disapprove the subcontractor. The Contractor's plan for subcontract repair shall be stated in the proposal. All subcontract repair costs shall be the Contractor's responsibility and included in the Contract cost.

Directed items for repair not covered in this Contract but deemed necessary by the City to keep the fleet in a well maintained condition shall also be included in the Contract cost.

Directed repairs for items not covered in this Contract which are not considered to be necessary for proper fleet maintenance shall not be included in the Contract cost but shall be invoiced time plus actual parts and materials cost. The time charge for such repairs shall not exceed that published in the MITCHELL flat rate table, latest edition if work is automotive related. All welding and fabrication functions as described above are included in the Contract cost and therefore not subject directed repair costs.

8) Emergency Conditions

The Contractor shall mobilize the shop and provide repair and maintenance services for the duration of emergency situations such as flood, hurricane, snow storm, earthquake, fire, tornado, etc. and other emergencies declared by the Mayor. Such service shall include adequate staffing to ensure continuous twenty-four (24) hour support for the emergency period or required by the Mayor or designee. Such circumstances may occur outside normal hours of business operation and can involve any number of employees or equipment. Costs incurred for operations outside of normal duty hours shall be billed at a rate of no more than the agreed hourly or overtime labor costs plus cost of parts and materials. Services provided outside the scope of work of the Contract shall be billed separately. Staffing levels during emergencies shall be approved by the City.

Repair priorities in emergency situations may be revised by the Mayor or designee.

9) Facilities

A facility to be owned or leased and operated by the Contractor shall be included in the Contract cost and subject to approval by the City prior to the start of the Contract. All costs for necessary operational requirements such as water, electricity, HVAC, telephone, gas, propane, garbage and hazardous waste disposal, recycling of batteries, coolant, Freon, oil and fluids, etc., shall be borne by the Contractor and included in

the proposed Contract price. This shall include any maintenance costs to the structure or systems such as plumbing, HVAC, electrical, etc. These costs shall be included in the proposed Contract price.

10) Permits, Licenses and Fees

All permits, licenses and fees required for the Contractor to conduct all requirements of this Contract shall be the responsibility of the Contractor. Any non-compliance items discovered by OSHA, Department of Environmental Protection (DEP), American National Standards Institute (ANSI), etc. shall be the responsibility of the Contractor and must be corrected, repaired, or replaced as required and brought into conformance without undue delay. All costs for compliance fines levied shall be the responsibility of the Contractor.

11) Tools and Equipment

The Contractor must provide all equipment, tools, hoist, lifts, drains, and office furniture except that used by the City. The Contractor may provide or purchase other equipment with his/her own funds and shall be wholly owned by the Contractor. Installation of such equipment is subject to approval by the City.

12) Quality Assurance Program

The Contractor shall provide the City a Quality Assurance Program for the maintenance of City vehicles and equipment.

Performance standards shall include, as a minimum, as follows:

- a) Fleet availability.
- b) Manufacturer's warranties.
- c) PM Performance.
- d) Repair performance.
- e) Parts availability.

13) Repair Priority

The Contractor shall provide preventive maintenance, scheduled and unscheduled repairs to vehicles in a priority set by the City.

14) Hours of Operation

The Contractor's shop shall be open, a minimum of, Monday through Friday from 8:00 AM to 5:00 PM. The Contractor may vary operating hours only upon approval of the City. Vehicles and equipment will be accepted for PM's or repair during these hours. The Contractor may, at their option, work on City vehicles and equipment on scheduled City holidays but will not be required to accept vehicles and equipment for PM or repair during holidays. Contractor must be available or arrangements shall be made for weekend and holiday drop-offs (primarily for Public Safety and Transit). City holidays observed are as follows:

- New Year's Day
- Martin Luther King, Jr./Civil Rights Day

- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- The Day After Thanksgiving
- Christmas Day

15) Investigation

The Contractor shall support the City with technical investigations related to the fleet. Such investigations may include accidents, abuse, or other issues of a technical nature.

16) Inspection of Work

The Contractor shall furnish the City or designated representative every reasonable opportunity for inspection to determine if work is being performed per the terms of this Contract. The City shall provide a twenty-four (24) hour notice of such inspection.

17) Auditing of Contractor

The City or designee shall have access to all of the Contractor's personnel books, records, invoices, correspondence, instructions, plans, drawings, invoices, receipts, vouches and memoranda of every description pertaining to work performed under this Contract for the purpose of verifying actual work performed. The Contractor shall make all efforts to accommodate such requests for audit by the City at any reasonable time.

18) Reserved

19) Waste

The Contractor shall be responsible for disposing of all trash, oil, oil filters, fluids, batteries, parts and all other waste generated in the repair/service requirements of this Contract. Price shall be included in the Contract cost. All such disposal must be in accordance with current city, county, state and Federal regulations and laws. The Contractor shall be responsible for training employees regarding working with hazardous materials. Additionally, the Contractor shall comply with all Federal "Right to Know" regulations and legislation. The Contractor shall hold the City harmless for any and all actions of the Contractor regarding storing, handling and disposal of waste.

20) City's Responsibilities

- a) Communicate regularly with the Contractor to resolve questions and issues on a daily basis.

- b)** Make all data available to the Contractor, which in the opinion of the City, is necessary to for the Contractor to provide quality service under the terms of this Contract.
- c)** Insure the Contractor has access to repair or maintain all vehicles and equipment under the terms of this Contract.
- d)** Provide purchasing support for any directed repairs as required.
- e)** Pay for all fuel for all vehicles and equipment except that owned and operated by the Contractor.

**EXHIBIT B
OFFER SECTION**

A. OFFEROR

Firm Name: _____

Contact Name: _____

Principal Address: _____

Local Address: _____

Phone: _____ Fax: _____

E-Mail: _____

Type of Organization: _____ Tax ID #: _____

License #: _____ City of Cottonwood Business Registration #: _____

B. Exceptions to RFP: _____

(See Information & Instructions §4.5.4 Exceptions to Solicitation and Section 1, paragraph 2 of the RFP)

C. Disclosure of Debarment information: _____

(See Information & Instructions §4.5.5 Disclosure)

D. Disclosure of Related Party Transactions: _____

(See Information & Instructions §4.5.6 Related Party Transactions)

E. COST: Offeror will state a cost for:

a. Hourly rate for repairs. \$ _____

b. Hourly cost of overtime repairs. \$ _____

F. Offeror certifies that they _____ are or _____ are not able to provide vehicle maintenance services for the entire fleet for the City of Cottonwood.

G. Offer certifies that they _____ do or _____ do not have a computerized records management system accessible by the City that contains the vehicle maintenance data. If Offer does have a computerized records management system, is the system capable of importing and exporting vehicle maintenance files? ____ Yes ____ No

H. PRICE MATRIX: Offeror will provide the price matrix for percentage markup on parts and supplies for City repairs and maintenance.

I. LIST OF MAJOR SUPPLIERS: _____

- J. APPROACH TO PROPOSAL:** Offeror will describe their approach to the City's need for a fleet vehicle maintenance solution (attach as separate documents as needed). Please include what services are included/excluded from your proposal (examples may be: tires only, heavy diesel only, excludes heavy diesel, etc.)

TURNAROUND TIME: Offer will provide a turnaround time for all public safety vehicles of _____ days/hours.

K. REFERENCES (Must be provided):

Provide names, addresses and telephone numbers of a minimum of three (3) references (public or private sector) to which you have provided similar goods or equipment. An additional sheet may be attached if needed.

1. Entity: _____

Address: _____

Contact: _____

Phone: _____

Goods or Services supplied and when provided: _____

Duration of Contract: _____

2. Entity: _____

Address: _____

Contact: _____

Phone: _____

Goods or Services supplied and when provided: _____

Duration of Contract: _____

3. Entity: _____

Address: _____

Contact: _____

Phone: _____

Goods or Services supplied and when provided: _____

Duration of Contract: _____

- L. FACILITY INFORMATION:** Offeror will state the location of their proposed facility, its principal maintenance and safety features (number of bays, lube racks, lifts, special equipment, etc.)

Facility Location: _____

Principal Maintenance and Safety Features (attach as separate document if needed): _____

M. RECEIPT OF ADDENDA:

Offeror acknowledges receipt of the following Solicitation Addendum(s):

<u>Addendum No.</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____

By signing below, the Undersigned certifies that the statements provided herein are accurate and certifies the intent to be bound by such statements.

Name of Contractor: _____

Signature: _____

By: _____

Title: _____

Business Address: _____

Telephone: _____

Email Address: _____

EXHIBIT C
CERTIFICATE OF INSURABILITY

I hereby certify that as an Offeror to City of Cottonwood (City) for Solicitation No. _____, I am fully aware of insurance requirements contained in the Contract and by the submission of this offer. I hereby assure City that I am able to produce the insurance coverage required should I be selected to be awarded the Contract.

Should I be awarded the Contract by City and then become unable to produce the insurance coverage specified within ten (10) working days, I am fully aware and understand that this shall constitute a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract at the sole discretion of the City. I also understand and am fully aware that I may not be considered for further projects by City.

Signature of Offeror

Company

Date

EXHIBIT D
CONTRACTOR IMMIGRATION WARRANTY
(To Be Completed by Contractor Prior to Execution of Contract)

A.R.S. § 41-4401 (Government procurement, E-verify requirement, definitions) requires as a condition of your Contract, verification of compliance by the Contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the Contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number:		
Name (as listed in the contract):		
Street Name and Number:		
City:	State:	Zip Code:

I hereby attest that:

1. The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
2. The Contractor shall verify, through the U.S. Department of Homeland Security's E-Verify program, the employment eligibility of each employee who provides services or labor in Arizona for wages or other remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to Contractor.
3. All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.
4. The Contractor acknowledges that a breach of this warranty by the Contractor or by any subcontractor or sub-subcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by Owner.
5. Owner retains the legal right to inspect the papers of Contractor, and any subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Signature of Contractor (Employer) or Authorized Designee:

Printed Name: _____

Title: _____

Date (month/day/year): _____

STATE OF: _____)
) ss
CITY OF: _____)

STATE OF: _____)
) ss.
COUNTY OF: _____)

EXHIBIT F
DISCLOSURE OF RESPONSIBILITY STATEMENT

- A. List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
- B. List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offenses indicating a lack of business integrity or business honesty, which affects the responsibility of the contractor.
- C. List any convictions or civil judgments under state or federal antitrust statutes.
- D. List any violations of contract provisions such as failing to perform (without good cause), or unsatisfactory performance, in accordance with the specifications of a contract.
- E. List any prior suspensions or debarments by any governmental agency.
- F. List any contracts not completed on time.
- G. List any penalties imposed for time delays and/or quality of materials and workmanship.
- H. List any documented violations of federal or state labor laws, regulations, or standards, occupational safety and health rules.

I, _____, as _____
Name of individual Title & Authority

of _____, declare under oath that the above statements, including
Company Name

any supplemental responses attached hereto, are true.

By: _____
(Signature of Individual/Representative)

STATE OF: _____)
) ss.
COUNTY OF: _____)

On this the _____ day of _____, 20_____, before me, the undersigned NOTARY PUBLIC, personally appeared _____, who acknowledged to me that they executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires: _____

SEAL

EXHIBIT G

LIST OF ACRONYMS

ACRONYM	PHRASE OR NAME
RFP	Request For Proposal
OSHA	Occupational Safety & Health Administration
F.O.B. Destination	Free On Board Destination
A.R.S.	Arizona Revised Statutes
ASE	Automotive Service Excellence
OEM	Original Equipment Manufacturer
BAFO	Best and Final Offer
TMDE	Test, Measurement and Diagnostic Equipment
PM	Preventive Maintenance
VIN	Vehicle Identification Number
DEP	Department of Environmental Protection
ANSI	American National Standards Institute

FY-23-AS-02 Vehicle Fleet Maintenance Proposal Evaluations

Reviewer Total Scores and Average by Vendor

Vendor			Average Score
	Lisa	Jason	
Reese's Tire & Automotive Tire Pros	64	71	67.5
Hansen Enterprises Fleet Repair, LLC.	80	73	76.5
Big-O Tire	79	74	76.5
Eaton Automotive	73	78	75.5

	Eaton Auto	Big-O	Reese's	HEFR
Number of vehicle lifts currently available*	4	3	10	3
Lifts capable of 26,000 lbs gvw**	0	0	1	1
Number of ASE Certifications (or equivalent) available	1	1	2	2
Fenced premises to store vehicles?	Y	Y	Y	Y
Number of bays on premises	4	3	10	3
Exceptions to RFP?***	N	N	N	N
Hourly Rate	\$135	\$80	\$85	\$185

*HEFR will only service our Buses, but does basic service work as well as major service work.

**Reese's tire has an 18,000 lb gvw lift capable of lifting CATS buses and street sweeper. Reeses's does basic an

***Big-O submitted proposal for tires, brakes, suspension only

****Eaton Automotive does basic and major repair work. They do not do tire replacement.

Original contract language:

Suggested Language:

d major repair work. They also do tire replacement.

FY23-AS-02 Vehicle Fleet Maintenance Proposal Evaluations

Reviewer: Combined

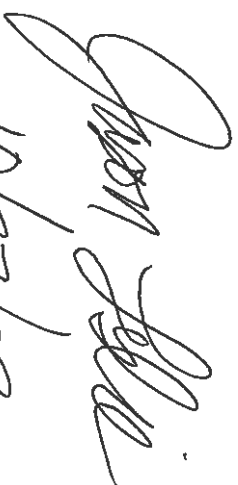
Vendor	Cost 25 pts max	Approach 25 pts max	Location 15 pts max	References 15 pts max	Site Visit 15 pts max	Database 5 pts max	Total 100 pts max
Reese's Tire & Automotive Tire Pros	20	10	15	10	5	4	64
Hansen Enterprises Fleet Repair, LLC.	10	25	10	15	15	5	80
Big-O Tires	25	20	15	10	5	4	79
Eaton Automotive	15	20	15	5	15	3	73

Joe Berry 10/27/22

FY23-AS-02 Vehicle Fleet Maintenance Proposal Evaluations

Reviewer: Combined

Vendor	Cost 25 pts max	Approach 25 pts max	Location 15 pts max	References 15 pts max	Site Visit 15 pts max	Database 5 pts max	Total 100 pts max
Reese's Tire & Automotive Tire Pros	22	15	10	10	10	4	71
Hansen Enterprises Fleet Repair, LLC.	15	20	5	13	13	5	73
Big-O Tires	25	20	10	10	5	4	74
Eaton Automotive	20	20	15	5	15	3	78


10/27/22

SITE VISIT EVALUATION

Name of Shop HEFR

Date of Visit 10/26/22

Total Score (scale of 1-15) 15

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

Yes

No

Number of ASE Certifications Available 2

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher _____

Total Number of lifts available 1 @ 25,000

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

They have all the software for our buses.
They have been certified in our lifts.
Currently service our fleet and keep stock of common
items.

Evaluator Name

Lisa Boring

SITE VISIT EVALUATION

Name of Shop HEFR - Hansen Enterprises Fleet Repair LLC
Date of Visit 10/26/22 Total Score (scale of 1-15) 13

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

☒ Yes ☐ No

Number of ASE Certifications Available 2

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 1

Total Number of lifts available 3

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

Summing, OE software, other diesel softwares.
Don't do fairs, Don't do tire replacement
They buy oil in bulk to save money.
They already service our buses. They keep our
buses, breaks, alternators, air filters already in stock.

Evaluator Name Jason Leslie

References

Name of Shop HEFR - Hanson Enterprises Fleet Repair, LLC. Name of Reference Goetts High Desert Mecha
Date Called 10/27/22 Total Score (scale of 1-15) 13

1. On a scale of 1-10, what is your satisfaction level with the services received?

1 2 3 4 5 6 7 8 9 10

2. How many vehicles are in your fleet? How many vehicles are serviced annually by proposer?

Depends on if they're in the area since my shops are in Prescott and in Flagstaff

3. For how many years have you taken your vehicles to the proposer's shop? (Duration of agreement if applicable)

4 years

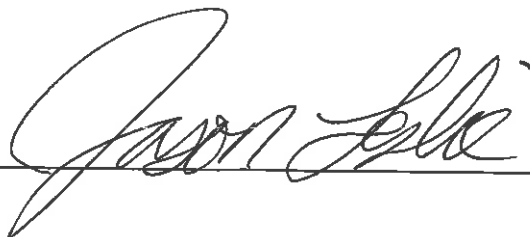
4. What goods or services were supplied and when did you most recently utilize proposers' services?

Transmission, Engine, AC, Drivetrain serviced. They're good with electrical.

5. Additional Comments you would like to add?

HEFR is upfront and fair with everyone

Evaluator Name



SITE VISIT EVALUATION

Name of Shop

Eaton Automotive

Date of Visit

10/26/22

Total Score (scale of 1-15)

15

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

Yes

No

Number of ASE Certifications Available 1

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 0

Total Number of lifts available 4

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

Currently has a small fenced in area, willing to install more fencing.
30 yr Experience
No big buses

Evaluator Name

Lisa Porning

SITE VISIT EVALUATION

Name of Shop Eaton Automotive

Date of Visit 10/26/2022

Total Score (scale of 1-15) 15

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

☒ Yes

☐ No

Number of ASE Certifications Available 1

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 1

Total Number of lifts available 4

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

3 10,000 weight lifts

One ton or lower on these lifts. Can't do
lifts on our buses.

Closest shop from our city buildings.

30 years experience as Master Tech. Moved
from the valley to Cottonwood. Been in business here
2 months.

Evaluator Name Jason Leslie

References

Name of Shop Eaton Automotive Name of Reference Right Choice Automotive
Date Called 10/27/22 Total Score (scale of 1-15) _____

1. On a scale of 1-10, what is your satisfaction level with the services received?

1 2 3 4 5 6 7 8 9 (10)

2. How many vehicles are in your fleet? How many vehicles are serviced annually by proposer?

256 cars a year.

3. For how many years have you taken your vehicles to the proposer's shop? (Duration of agreement if applicable)

10 years.

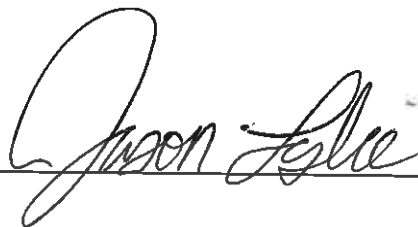
4. What goods or services were supplied and when did you most recently utilize proposers' services?

Mid March 2022. Everything that needed service.

5. Additional Comments you would like to add?

Diagnostic and quality of work were top notch.

Evaluator Name _____



SITE VISIT EVALUATION

Name of Shop Big O Tire

Date of Visit 10/26/20

Total Score (scale of 1-15) 5

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

Yes

No

Number of ASE Certifications Available 1

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 0

Total Number of lifts available 2

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

They have cameras but no fencing.
They would stock tires, can do oil changes & belts.
He did say he has picks to lift buses.

Evaluator Name [Signature]

SITE VISIT EVALUATION

Name of Shop Big O Tires

Date of Visit 10/24/2022

Total Score (scale of 1-15) 5

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

☒ Yes

☐ No

Number of ASE Certifications Available 1

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 0

1.) 10,000 2.) 11,000

Total Number of lifts available 3

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

Same day turnaround for service. No fenced security. They would keep vehicles in bays

Tires, brakes, suspension, oil changes, transmission. Jim brings in trucks for service. They will service buses

Evaluator Name

Jason Leslie

References

Name of Shop Big O Tires Name of Reference Wesco/Don Collier
Date Called 10/27/2022 Total Score (scale of 1-15) 10

1. On a scale of 1-10, what is your satisfaction level with the services received?

1 2 3 4 5 6 7 8 9 10

2. How many vehicles are in your fleet? How many vehicles are serviced annually by proposer?

25 vehicles

3. For how many years have you taken your vehicles to the proposer's shop? (Duration of agreement if applicable)

25 years

4. What goods or services were supplied and when did you most recently utilize proposers' services?

Get serviced every couple of days

5. Additional Comments you would like to add?

They stay late and even open during closed hours and days.

Evaluator Name Jason Leslie

References

Name of Shop Big O Tires Name of Reference Department of Public Safety
Date Called 10/27/22 Total Score (scale of 1-15) 10

1. On a scale of 1-10, what is your satisfaction level with the services received?

1 2 3 4 5 6 7 8 9 10

2. How many vehicles are in your fleet? How many vehicles are serviced annually by proposer?

4 vehicles. Always priority when brought in.

3. For how many years have you taken your vehicles to the proposer's shop? (Duration of agreement if applicable)

24 years.

4. What goods or services were supplied and when did you most recently utilize proposers' services?

Oil changes, and tire rotations.

5. Additional Comments you would like to add?

Great owner, and great product. They always back up what they say.

Evaluator Name

Jason Glee

SITE VISIT EVALUATION

Name of Shop Reese's

Date of Visit 10/26/22

Total Score (scale of 1-15) 5

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

Yes

No

Number of ASE Certifications Available Maybe 2

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 1

Total Number of lifts available 2

5. Site Security

Gated w/ 27 cameras

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

He stated it's hard to find our AC parts for buses.
Keeps 12-8 tires on hand for our buses
Currently use them for our tires, no longer use them for mechanical repairs due to buses having to be taking back for same issues.

Evaluator Name

Lisa Boring

SITE VISIT EVALUATION

Name of Shop Reeses

Date of Visit 10/27/2022

Total Score (scale of 1-15) 10

1. Shop Organization

1 2 3 4 5 6 7 8 9 10

2. Cleanliness

1 2 3 4 5 6 7 8 9 10

3. ASE Certifications Posted

Yes No

Number of ASE Certifications Available 5 - 2 Masters

4. Vehicle Lifts

Number of lifts rated at 26,000 GVW or higher 1 16,000 but can double in size

Total Number of lifts available 10

5. Site Security

1 2 3 4 5 6 7 8 9 10

6. Noted Observations

Roadside Assistance. Buses, PD and Fleet vehicles
need to be dropped off first thing in the morning.
They do tire replacement. Doesn't do transmission
or engine replacements.

Evaluator Name Jason Leslie

References

Name of Shop Reese's Tire - Automotive Tire Pros Name of Reference Graham's Integrity Site
Date Called 10/27/22 Total Score (scale of 1-15) 9

1. On a scale of 1-10, what is your satisfaction level with the services received?

1 2 3 4 5 6 7 8 9 10

2. How many vehicles are in your fleet? How many vehicles are serviced annually by proposer?

500 to 600 vehicles serviced

3. For how many years have you taken your vehicles to the proposer's shop? (Duration of agreement if applicable)

11 years

4. What goods or services were supplied and when did you most recently utilize proposers' services?

For all tire needs, 60% of mechanical needs

5. Additional Comments you would like to add?

They give really good service

Evaluator Name Jason Leslie

References

Name of Shop Reese's Tire + Automotive Tire Pros Name of Reference Advanced Septic and Plumbing
Date Called 10/27/22 Total Score (scale of 1-15) _____

1. On a scale of 1-10, what is your satisfaction level with the services received?

1 2 3 4 5 6 7 8 9 10

2. How many vehicles are in your fleet? How many vehicles are serviced annually by proposer?

12

3. For how many years have you taken your vehicles to the proposer's shop? (Duration of agreement if applicable)

Since 1992-

4. What goods or services were supplied and when did you most recently utilize proposers' services?

Tire replacement, oil changes, gear boxes, and other boxes

5. Additional Comments you would like to add?

They've treated our business fairly.

Evaluator Name Jason Leslie

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this 6th day of December, 2022, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and Eaton Automotive (the "Contractor").

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Contractor hereby agree as follows:

- A. Term of Agreement.** The initial term of this agreement shall be three (3) years following approval by the City Council. The City of Cottonwood may extend this contract for up to two (2) additional one (1) year periods at the sole discretion of the Cottonwood City Council.
- B. Scope of Services.** The Contractor shall provide the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- C. Compensation.** The City shall pay the Contractor for the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein, at the rates as set forth in the Offer Section, marked as Exhibit B and incorporated by reference herein.
- D. Payments.** The City shall pay the Contractor subject to the Contractor submitting monthly invoices to the City for each requested payment. Invoices shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- E. Insurance.** The Contractor shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Contractor shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood
Risk Manager
821 N Main Street
Cottonwood, AZ 86326
Telephone: (928) 340-2713 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Contractor's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail

to the City of Cottonwood Risk Manager. The Contractor's insurance must be primary, and any insurance or self-insurance maintained by the City shall be non-contributory. If any part of this Contract is subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

1. **Commercial General Liability** insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract.
2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Contractor's owned, hired, and non-owned vehicles.
3. **Worker's Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.
4. **Garage Keepers Liability** insurance with a minimum single limit of not less than two hundred fifty thousand dollars (\$250,000) per occurrence.

F. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Contractor, its agents, employees, or any tier of Contractor's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.

G. Applicable Law; Venue. In the performance of this Agreement, the Contractor shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

1. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, the Contractor shall be paid for all undisputed services performed to the termination date.
2. **For Cause.** This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.
3. **Due to Work Stoppage.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

4. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party of the Agreement with respect to the Agreement's subject.
5. **Gratuities.** The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor an amount equal to one hundred fifty percent (150%) of the gratuity.
6. **Fund Appropriation Contingency.** The Contractor understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

1. **Independent Contractor.** The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Contractor meets the requirements of its agreed scope of work as set forth in Section 2 above. The Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
2. **Laws and Regulations.** The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
3. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
4. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
5. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other

provision or application of the Agreement which may remain in effect without the invalid provision or application.

6. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.
7. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
8. **Assignment.** No right or interest in this Agreement shall be assigned by the Contractor without prior, written permission of the City and no delegation of any duty of the Contractor shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Contractor in violation of this provision shall be a breach of this Agreement by the Contractor.
9. **Subcontracts.** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used.
10. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as 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 this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
11. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
12. **Liens.** All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
13. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or

certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Contractor: Eaton Automotive

City of Cottonwood (Owner)

c/o Donovan Eaton

c/o Contract/Purchasing Administrator

1151 E State Route 89A

821 N Main Street

Cottonwood, AZ 86326

Cottonwood, AZ 86326

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

14. **Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Contractor as needed for the performance of duties under this Agreement.
15. **Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in 9.13. Within ten (10) days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
16. **Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.
17. **Compliance with Federal Immigration Laws and Regulations.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and

complies with A.R.S. § 23-214.A. Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

18. **Forced Labor of Ethnic Uyghurs.** In accordance with A.R.S. §35-394. The contractor is not currently and for the duration of the contract will not use the forced labor of ethnic Uyghurs in the People's Republic of China including goods, services, contractors, subcontractors, or suppliers thereof."

Federal Transit Administration Requirements

A portion of the funding for this contract will be from CFDA 20.509 Formula Grants for Non-Urbanized Areas, from the Federal Transit Administration and Arizona department of Transportation.

19. **Charter Bus Requirements.** Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and sub recipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
20. **Energy Conservation.** Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.
21. **Clean Water.** All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
22. **Lobbying.** Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.
23. **Access to Records and Reports.** The following access to records requirements apply to this Contract:

Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49

CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

24. **Federal Changes.** Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.
25. **Clean Air.** Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
26. **Contract Work Hours & Safety Standards Act.** Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any

workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

- 27. No Government Obligation to Third Parties.** The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- 28. Program Fraud and False or Fraudulent Statements or Related Acts.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
- 29. Government Wide Debarment and Suspension (Non Procurement).** The Recipient agrees to

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

- 30. Civil Rights Requirements.** The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service: a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute): (1) FTA’s “Nondiscrimination” statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program, b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued, c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of

1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation, e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20

U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance, h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2, i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited

by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination. k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

- 31. Breaches and Dispute Resolution.** Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 32. Disadvantaged Business Enterprise.** a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Arizona DBE goal is 3.82% race neutral. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere. b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that

work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work. f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

33. **Prompt payment.** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.
34. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.
35. **Drug and Alcohol Abuse and Testing.** The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), " 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.
36. **Other Federal Requirements.** The following requirements are not federal clauses.
37. **Full and Open Competition.** In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.
38. **Prohibition Against Exclusionary or Discriminatory Specifications.** Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.
39. **Conformance with ITS National Architecture.** Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
40. **Access Requirements for Persons with Disabilities.** Contractor shall comply with 49 USC

5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

- 41. Notification of Federal Participation.** To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.
- 42. Interest of Members or Delegates to Congress.** No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.
- 43. Ineligible Contractors and Subcontractors.** Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.
- 44. Other Contract Requirements.** To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.
- 45. Compliance with Federal Regulations.** Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
- 46. Real Property.** Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
- 47. Access to Services for Persons with Limited English Proficiency.** To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

48. **Environmental Justice.** Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,
49. **Environmental Protections.** Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.
50. **Geographic Information and Related Spatial Data.** Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.
51. **Geographic Preference.** All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).
52. **Catalog of Federal Domestic Assistance (CFDA) Identification Number.** The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.
53. **CFDA number for the Federal Transportation Administration.** A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
54. **Compliance with Regulations.** The SUBRECIPIENT shall comply with the regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (USDOT), 49 CFR 21 and Executive Order 99-4, as they may be amended from time to time, which is herein incorporated by reference and made a part of the Agreement.
55. **Nondiscrimination.** The SUBRECIPIENT, with regard to the work performed by it during the Agreement will not discriminate on the grounds of race, color, disability, sex, or national origin in the selection and retention of contractors and subcontractors, including procurement of material and leases of equipment. The SUBRECIPIENT will not participate either directly or indirectly in

discrimination prohibited by 49 CFR 21.5, including employment practices when the Agreement covers a program set forth in Appendix A of 49 CFR part 21.

- 56. Solicitations for contractors, including procurement of real property, materials, and equipment.** In all solicitations made by competitive bidding or negotiation by the SUBRECIPIENT for work to be performed under a contract or subcontract, including procurement of real property, materials, and purchase or lease of equipment, each potential contractor, subcontractor, supplier, or lessor shall be notified by the SUBRECIPIENT of the SUBRECIPIENT's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, disability, sex, or national origin. Any contract or agreement established shall contain the language from this Agreement's Appendix A and B, and where appropriate, Appendix C.
- 57. (4) Information and Reports.** The SUBRECIPIENT shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by ADOT, FHWA, and FTA to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of the SUBRECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, the SUBRECIPIENT shall so certify to ADOT, FHWA, and FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 58. (5) Sanctions for Non-Compliance.** In the event of the SUBRECIPIENT's non-compliance with the non-discrimination provisions of this Agreement, ADOT shall impose such sanctions as it, FHWA and FTA determine to be appropriate, including, but not limited to: withholding of payments to the SUBRECIPIENT under the Agreement until the SUBRECIPIENT complies, and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

Contractor

Company Name

Printed Name

Signature

Date of Signing

Title

City of Cottonwood

Tim Elinski, Mayor

Date of Signing

Attest:

Marianne Jiménez, City Clerk

Approved as to form:

Steve Horton, City Attorney

EXHIBIT A

SPECIFICATIONS / SCOPE OF WORK

SPECIFICATIONS

The City of Cottonwood (City) is soliciting firms to provide vehicle fleet maintenance operations **on all or a part** of the City's fleet vehicles. Maintenance will include:

- A. All routine scheduled maintenance per the manufacturers' recommended schedule (See Special Conditions).
- B. All warranty work for vehicles with existing warranty must be completed by the appropriate factory dealer.
- C. All evaluation of newly acquired vehicles and equipment.
- D. All unscheduled repairs.
- E. All requested work (prices to be quoted separately from proposed annual costs).

REQUIREMENTS

- A. All mechanics must be ASE (Automotive Service Excellence) certified and will maintain certification during the contract period. No uncertified mechanics will be allowed without prior written permission from the City. If mechanics are not certified to work on specialized equipment on City vehicles, the City may take vehicles to a mechanic who is certified to perform that specific task, **but only after written documentation from Contractor is obtained stating that the Contractor does not perform that type of work or cannot in a timely manner.**
- B. The Contractor will propose a cost for all work by an hourly rate and an overtime rate.
- C. All parts used in scheduled or unscheduled maintenance will be at a discount from a national chain of original equipment manufacturer (OEM) and/or aftermarket parts provider (i.e., NAPA, AutoZone, CARQUEST, etc.). Provider must state discount percentage with the Request for Proposals (RFP) response.
- D. Turnaround time: Contractor will propose repair/scheduled maintenance times prioritized for public safety vehicles first, all other vehicles and equipment second.
- E. Contractor must be capable of providing basic maintenance for specialized equipment such as construction equipment, electronics for police lights and radios, etc. and/or making recommendations for possible outsourcing of items beyond their capabilities.
- F. All overtime must be authorized by the City in advance of transportation, repair or maintenance. The hourly overtime rate as stated in the proposal shall be used. Other costs of this service will be negotiated with the Contractor.
- G. The City will have full and complete access to monitor and audit operations, bookkeeping, and parts inventories.
- H. Contractor may, at their option, evaluate City vehicles prior to proposal opening. The City will make inspection opportunities available.
- I. Contractor will supply a safe, suitable facility, all fixed equipment (lube racks, etc.) shop supplies and allow safety inspections by the City. **To perform certain maintenance tasks on some Transit Buses and other large heavy diesel vehicles, the Contractor must be able to service vehicles up to 35' in length and 26,000 lbs. GVW.** The City will incur no liability for shop accidents or accidents occurring

during transportation or testing, or any other vehicle/equipment operations. The Contractor must be willing to accept the City's indemnification terms and hold the City harmless from any incidents or accidents arising in shop or testing operations.

- J. Contractor must be bonded and insured and shall remain bonded and insured during the term of the Contract and any and all Contract extensions as per the Information and Instructions to Offerors.
- K. The City, at its discretion, may prioritize the sequence of vehicles scheduled for maintenance or repair. The City will provide prioritization as required.
- L. Contractor must have secure storage space for vehicles awaiting parts or repair.
- M. Contractor must be able to perform scheduled maintenance.
- N. Contractor will dispense fluids and lubricants from fifty-five (55) gallon drums as opposed to quart or gallon containers when the cost of doing so is beneficial to the City.
- O. Contractor must request and receive permission from the City if any City-owned equipment is sent offsite for work that is beyond the capability of the Contractor (i.e., radios, CAD systems, radar and license plate reading equipment, bus ramps, etc.).
- P. If a vehicle or equipment is outsourced for repair or parts, the Contractor will bill the City not more than an agreed upon percentage of markup for parts, labor and shipping/transportation.
- Q. Contractor will provide all tools. If the City owns any equipment-specific tools, they will be made known and available to the Contractor. Depending on the cost to the City, special tools, TMDE (Test, Measurement and Diagnostic Equipment) may be loaned, rented or leased to the Contractor.

SPECIAL CONDITIONS

- A. **Term of Contract:** Term of this Contract will be three (3) years with options to renew for two (2) additional one (1) year periods at the discretion of the City.
- B. **Introduction:** The City of Cottonwood (City) is requesting proposals from experienced and qualified firms for the maintenance of the City's vehicle and equipment fleet. The awarded Contract(s) shall be for a three (3) year period with options to renew for two (2) additional one (1) year periods. **The City desires to obtain multiple providers** for various fleet maintenance services. The contracted provider shall determine if any work is beyond their capability and therefore should be outsourced.
- C. **Description of Government:** The City of Cottonwood is located in the center of the State of Arizona and provides a full spectrum of municipal services including public safety, parks and recreation, streets and highways, public improvements, water, wastewater treatment, storm water utilities, libraries and general administration services. The City is managed under a Mayor and Council form of government consisting of a Mayor, Vice Mayor and five (5) Council Members.
- D. **Format:** The City is interested in a brief, concise proposal not exceeding thirty-five (35) single sided pages and must address the requirements requested by the City. Proposals not conforming to the requirements of this RFP may be disqualified. It is expected that all proposals will fit the proposed format. However, it is expected that some exceptions shall be taken by Contractors. In the case of exceptions, a separate binder must be included with the offer labeled "Exceptions" with only one (1) exception per page listed in the following format:
 - 1. Page number of exception.
 - 2. Section number of exception.

3. Actual language in the request.
4. Language Contractor proposes.
5. Specific language change must be underlined and highlighted.

Example:

Page 14
Section 2.5
Vehicle Preparation
Original language
Proposed language

- E. Vehicle Assessment:** If needed, the Contractor shall conduct an assessment of currently owned vehicles and equipment in order to establish a baseline for vehicle/equipment condition and/or make recommendations to bring vehicles/equipment up to proper working condition. Assessments shall be billed at the contracted hourly rate.

Upon request by the City, the Contractor shall conduct an assessment of newly acquired vehicles and equipment for service. Assessments shall be billed at the contracted hourly rate.

Vehicle assessment shall include (but not be limited to):

- 1) Headlights.
 - a) high beam
 - b) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.
- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) All interior lights.

- 17) Fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Battery, charging system, terminals and cables and battery box.
- 19) Heating and air conditioning systems.
- 20) Frame, cross members and body joints.
- 21) Operation of the engine starting system circuit.
- 22) Drive shaft, U-joints, CV joints and boots.
- 23) Fuel, oil, coolant or other fluid leaks.
- 24) Air and emission filters and valves.
- 25) Hoses, clamps and belts.
- 26) Operation of all gauges.
- 27) All grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Engine oil and filter.
- 29) Tires.
- 30) Body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Air filter.
- 32) Items included in tune up.
- 33) Brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as required.
- 34) Perform road test to detect any deficiencies.

SCOPE OF SERVICES

- A. The Contractor shall provide preventive, maintenance, remedial repairs/overhaul, minor repairs from accidents, misuse, abuse or vandalism, welding, fabrication, and all motor services currently outsourced by the City.

The Contractor shall furnish all required supervision, labor, tools (specialty and hand tools), TMDE, parts, supplies and materials to maintain the fleet in a state of repair and service consistent with generally accepted fleet practice and as defined in this RFP. The successful Contractor shall supply their own equipment (including vehicles), fuel, and maintenance for road services, parts running, etc. Additionally, the Contractor must provide a fully staffed maintenance operation for a minimum of Monday – Friday from 8:00 AM to 5:00 PM each week.

It is understood that not all providers will be able to service the entire City fleet. It is the City's intention to award agreements to multiple shops. Please note in proposals what type/kind of services your firm is able to provide under an agreement resulting from this procurement.

1. Preventive Maintenance

It is the responsibility of the Contractor to implement a preventive maintenance (PM) program to service City vehicles. Preventive maintenance shall be defined as scheduled routine inspection, servicing, repair and replacement of equipment components on a regular basis to facilitate

operations with a minimum of downtime. The PM program shall be presented in detail in the proposal and shall be designed in accordance with recognized good fleet management practice and meet or exceed the terms and conditions required to comply with the OEM specifications. The proposed PM shall at a minimum, include the specifications outlined herein but is subject to modification upon mutual agreement of the city and the awarded Contractor. It is therefore critical that each proposal be submitted exactly as explained below. All management functions of the fleet shall remain with the City unless exceptions are noted below. Non-conforming proposals may be eliminated.

2. Preventive Maintenance Program

Preventive maintenance shall be performed on City vehicles and equipment.

3. Preventive Maintenance Scheduling

Preventive maintenance shall be scheduled on a usage basis with calendar time override. That is, each Contract vehicle and piece of equipment shall be scheduled for preventive maintenance based on a usage limitation (miles or hours) or time since the last PM, whichever comes first. (CAT/LYNX buses have their own PM Schedules based on miles and compliant with ADOT/FTA/DOT regulations). The Contractor shall complete and file an “inspection form” approved by the City for each PM performed on each vehicle and piece of equipment.

It shall be the City responsibility to develop and implement a PM scheduling system that provides immediate notification to the City’s operating departments when PMs are scheduled for vehicles and equipment. This schedule shall provide for three (3) days advance notice of scheduled service. The Contractor’s Site Manager shall work with the City Contract Manager to schedule actual dates of service.

4. Preventive Maintenance Performance

The timely performance of preventive maintenance is the responsibility of the Contractor for all vehicles and equipment. The only authorized exception to this section shall be when a vehicle or piece of equipment fails to be presented by the operating department. In such an instance, written notification shall be provided to the City detailing dates, times, department, vehicle number, and name of the department manager notified so that the City may address the problem.

5. Preventive Maintenance Intervals

Preventive maintenance services and service intervals shall meet all specifications listed in Section 10 or exceed OEM recommendations for such service. The program is subject to modification upon mutual agreement of the City and the awarded Contractor.

6. Preventive Maintenance Scheduling for New Equipment

As part of placing in service newly acquired vehicles and equipment, the Contractor’s Site Manager and the City shall jointly review and establish the proposed PM schedule to be specifically followed for that vehicle or piece of equipment.

7. Preventive Maintenance Oil Analysis Program

Upon the City’s request, the Contractor shall provide an oil sampling program for use as a diagnostic aid in determining service levels, repairs and intervals along with adjusting vehicle replacement schedules. The oil sampling program shall include but not be limited to the following:

- a. All diesel and auxiliary engines.

- b. Hydraulic systems for personnel aerial lift devices, boom trucks, ladder trucks, etc., exclusive of hydraulic brake systems.
- c. All construction equipment so designated by the City and agreed to by the Contractor, which may or may not fall into the range of equipment designated above.

Any requested oil sampling services shall be billed at the contracted hourly rate.

8. Preventive Maintenance Coolant Analysis Program

Upon the City's request, the Contractor shall provide a coolant sampling program for use as a diagnostic aid in determining coolant/filter change intervals along with detection of engine cooling problems. This program is to include all liquid cooled engines.

Any requested coolant system analysis services shall be billed at the contracted hourly rate.

9. Personal Lift Device Inspection and Certification

The Contractor shall develop and implement an annual program for the inspection and certification of all City owned personal lift devices in accordance with state, Federal or local standards. The inspections shall be completed by a certified inspector hired by the Contractor once per year. Each fifth year the vehicle shall be transported to the manufacturer's distributor or City approved vendor for its five (5) year inspection and rebuild as required. A written report of findings, corrective actions taken and certification shall be provided to the City, Risk Manager and operating department. Additionally, a copy shall be included in the individual equipment vehicle files maintained by the Contractor for the City. The Contractor shall be responsible for the certification and cost of the certification including mandatory rebuilds of these devices included in the contract cost.

10. Preventive Maintenance (PM) Schedule

Preventive Maintenance (PM) shall be performed according to manufacturer's requirements. The items listed below shall also be performed at each PM.

Safety checklist: The following items must be inspected at every PM:

- 1) Headlights.
 - c) high beam
 - d) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.

- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) Inspect all interior lights.
- 17) Inspect fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Inspect battery, charging system, terminals and cables and battery box.
- 19) Inspect heating and air conditioning systems.
- 20) Inspect frame, cross members and body joints.
- 21) Inspect operation of the engine starting system circuit.
- 22) Inspect drive shaft, U-joints, CV joints and boots.
- 23) Inspect any fuel, oil, coolant or other fluid leaks.
- 24) Inspect air and emission filters and valves as needed.
- 25) Inspect hoses, clamps and belts.
- 26) Inspect operation of all gauges.
- 27) Inspect all grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Inspect engine oil and filter.
- 29) Inspect tires as required.
- 30) Inspect vehicle for body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Inspect air filter as necessary. Must be completed at a minimum of twelve (12) months or 12,000 miles whichever occurs first.
- 32) Inspect brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as needed to ensure proper functioning. **NOTE:** Every brake job shall include a new brake hardware kit including springs, hold downs, rollers, etc.
- 33) Perform road test and correct any deficiencies.

a. Tractors / Heavy Equipment / Diesel / Specialty Equipment

Tractors (farm type), fire trucks, diesel powered equipment, and other heavy/specialized equipment **may be excluded from this agreement as determined by the City.**

b. Trailers

Light Duty Trailers (up to one ton) - conduct a semi-annual safety inspection, complete lubrication, repack wheel bearings and repair as required.

Heavy Duty Trailers (exceeding one ton) - provide quarterly safety inspections and complete repair and lubrication including operation of any attachments such as winches, ramps, gates, etc., in accordance with Federal Motor Carrier regulations.

c. Ancillary Services

1) Quick Fix

The Contractor will provide a quick fix solution for repairs of less than one (1) hour duration. This service shall be offered at all times during normal hours of business operation as part of the Contract cost. Typical quick fix repairs may include but are not limited to lights, wiper blades, battery replacements, etc.

2) Parts

The Contractor shall be responsible for purchasing and maintaining the entire parts and supplies inventory for all commonly used parts, lubricants, tools and operating supplies (hereafter “parts”) that are required for preventive maintenance services. All parts shall meet or exceed OEM specifications. The Contractor shall manage the inventory consistent with good inventory management practices.

The Contractor shall set inventory levels in a realistic manner to support the number and type of vehicles operated by the City. The City shall have oversight of inventories and may adjust quantities up or down. The City reserves the right to reject parts not meeting OEM specifications.

If the Contract is severed prior to the end of the Contract period, the City will purchase the remaining inventory from the Contractor at the actual cost paid. Therefore, it is imperative that the Contractor maintain an accurate accounting of inventory value at all times during the term of the Contract.

3) Training

The Contractor shall provide continuous training for his/her employee. The City shall be made aware of all training. Systems included on CATS/LYNX Buses should be considered in regards to contractor’s employee training.

4) Re-Repair

Re-repair is the repair of the same failure within the warranty period due to parts failure, mis-diagnosis or mechanic error. The Contractor shall track and identify re-repair work and shall not include the cost of re-repairs, parts, labor or supplies in the monthly statement.

1) Misuse, Abuse or Negligence of Equipment

The City wishes to have any knowledge of equipment misuse, abuse or negligence by its employees. The Contractor shall be required to submit suspected reports of misuse, abuse or neglect to the City in any case where evidence provides reasonable cause to suspect misuse, abuse or negligence. The Contractor will inform the City via email or telephone immediately, followed by a written report.

2) Welding and Fabrication

Welding and fabrication are integral parts of fleet maintenance operations and all costs including welding rod, wire, supplies, protective clothing and equipment and all materials (steel aluminum, etc.) are the responsibility of the Contractor. All welding and fabrication requirements as part of repairs shall be performed at all times during the term of the Contract period.

Welding and fabrication required as part of repairs shall be billed at the contracted hourly rate.

3) Fleet Management Information System

The Contractor shall own and provide the Fleet Management System. It will be operated by the Contractor and 100% access to the City's records shall be available to the City with unrestricted access at all times via the internet.

4) Fleet Management Reporting Requirements

The Contractor shall provide the City or designee access at all times to electronic data, books, records, correspondence, instructions, plans, drawings, receipts, invoices, vouchers and memoranda of every description, pertaining to the work under the Contract for the purposes of audit and verification of work performed.

The information system shall provide records on all repairs and services performed for each vehicle and piece of equipment. Under no circumstances shall the originally assigned City equipment number be changed or altered and all record entries shall utilize the original vehicle/equipment number. All previous history with the vehicles and equipment shall remain intact with the originally assigned City equipment number. The Contractor shall enter daily, all repair work order data including labor, contracted services, parts transactions, fuel charges and other data deemed necessary by the City. The Contractor shall provide work orders, PM inspection reports and other special forms necessary for meeting the requirements of this Contract.

At the termination of the contract, the Contractor shall provide a digital record of all vehicles detailing the services provided for each vehicle. This record must be in a format that can be utilized by the City and/or another maintenance provider.

5) Files

The Contractor shall maintain a complete file of service manuals, service bulletins, lubrication charts and other information necessary to properly service all City vehicles and equipment. A computer database is sufficient to meet this requirement.

A history shall be maintained by the Contractor for each City vehicle and piece of equipment. This folder shall contain, in chronological order, all work orders generated specific to the vehicle or equipment, correspondence of any nature pertaining to the vehicle or equipment such as manufacturer's recall orders or service bulletins and memoranda pertaining to service and repairs. Additionally, all vehicle and equipment folders shall contain information such as make, year, model, vehicle identification number (VIN) and a spare set of keys where applicable.

6) Outside Repairs

The Contractor shall be responsible for arranging and managing the conduct of outside repairs which cannot be economically performed in house and shall be responsible for continuing review of the need for specific outside repairs as opposed to performing such work in house. These outside repairs may include transmission overhaul and repair, radiator repair, engine overhaul and repair, hydraulic system

repair or overhaul, major equipment overhaul or repair and other such works orders done to minimize the City's down time. Outside repairs shall be discussed with the City to ensure the outside versus inside repair decision remains justified. All responsibility, paperwork, invoicing, quality control, vehicle movement to and from outside repair facilities, costs, vehicle security, etc., shall be the responsibility of the Contractor and part of the Contract cost.

7) Subcontracting

The Contractor may subcontract services with prior approval of the City. No such approval shall be construed as making the City a party of or to such subcontract or subject the City to liability of any kind to the subcontractor. No subcontract of any kind shall under any circumstance, relieve the Contractor of its liability and obligation under the Contract and despite any subcontract, the City shall deal through the Contractor and subcontractors shall be dealt with as workmen and representatives of the Contractor.

The City reserves the right to request more than one (1) proposal for any subcontract work and shall have the right to approve or disapprove the subcontractor. The Contractor's plan for subcontract repair shall be stated in the proposal. All subcontract repair costs shall be the Contractor's responsibility and included in the Contract cost.

Directed items for repair not covered in this Contract but deemed necessary by the City to keep the fleet in a well maintained condition shall also be included in the Contract cost.

Directed repairs for items not covered in this Contract which are not considered to be necessary for proper fleet maintenance shall not be included in the Contract cost but shall be invoiced time plus actual parts and materials cost. The time charge for such repairs shall not exceed that published in the MITCHELL flat rate table, latest edition if work is automotive related. All welding and fabrication functions as described above are included in the Contract cost and therefore not subject directed repair costs.

8) Emergency Conditions

The Contractor shall mobilize the shop and provide repair and maintenance services for the duration of emergency situations such as flood, hurricane, snow storm, earthquake, fire, tornado, etc. and other emergencies declared by the Mayor. Such service shall include adequate staffing to ensure continuous twenty-four (24) hour support for the emergency period or required by the Mayor or designee. Such circumstances may occur outside normal hours of business operation and can involve any number of employees or equipment. Costs incurred for operations outside of normal duty hours shall be billed at a rate of no more than the agreed hourly or overtime labor costs plus cost of parts and materials. Services provided outside the scope of work of the Contract shall be billed separately. Staffing levels during emergencies shall be approved by the City.

Repair priorities in emergency situations may be revised by the Mayor or designee.

9) Facilities

A facility to be owned or leased and operated by the Contractor shall be included in the Contract cost and subject to approval by the City prior to the start of the Contract. All costs for necessary operational requirements such as water, electricity, HVAC, telephone, gas, propane, garbage and hazardous waste disposal, recycling of batteries, coolant, Freon, oil and fluids, etc., shall be borne by the Contractor and included in

the proposed Contract price. This shall include any maintenance costs to the structure or systems such as plumbing, HVAC, electrical, etc. These costs shall be included in the proposed Contract price.

10) Permits, Licenses and Fees

All permits, licenses and fees required for the Contractor to conduct all requirements of this Contract shall be the responsibility of the Contractor. Any non-compliance items discovered by OSHA, Department of Environmental Protection (DEP), American National Standards Institute (ANSI), etc. shall be the responsibility of the Contractor and must be corrected, repaired, or replaced as required and brought into conformance without undue delay. All costs for compliance fines levied shall be the responsibility of the Contractor.

11) Tools and Equipment

The Contractor must provide all equipment, tools, hoist, lifts, drains, and office furniture except that used by the City. The Contractor may provide or purchase other equipment with his/her own funds and shall be wholly owned by the Contractor. Installation of such equipment is subject to approval by the City.

12) Quality Assurance Program

The Contractor shall provide the City a Quality Assurance Program for the maintenance of City vehicles and equipment.

Performance standards shall include, as a minimum, as follows:

- a) Fleet availability.
- b) Manufacturer's warranties.
- c) PM Performance.
- d) Repair performance.
- e) Parts availability.

13) Repair Priority

The Contractor shall provide preventive maintenance, scheduled and unscheduled repairs to vehicles in a priority set by the City.

14) Hours of Operation

The Contractor's shop shall be open, a minimum of, Monday through Friday from 8:00 AM to 5:00 PM. The Contractor may vary operating hours only upon approval of the City. Vehicles and equipment will be accepted for PM's or repair during these hours. The Contractor may, at their option, work on City vehicles and equipment on scheduled City holidays but will not be required to accept vehicles and equipment for PM or repair during holidays. Contractor must be available or arrangements shall be made for weekend and holiday drop-offs (primarily for Public Safety and Transit). City holidays observed are as follows:

- New Year's Day
- Martin Luther King, Jr./Civil Rights Day

- President's Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- The Day After Thanksgiving
- Christmas Day

15) Investigation

The Contractor shall support the City with technical investigations related to the fleet. Such investigations may include accidents, abuse, or other issues of a technical nature.

16) Inspection of Work

The Contractor shall furnish the City or designated representative every reasonable opportunity for inspection to determine if work is being performed per the terms of this Contract. The City shall provide a twenty-four (24) hour notice of such inspection.

17) Auditing of Contractor

The City or designee shall have access to all of the Contractor's personnel books, records, invoices, correspondence, instructions, plans, drawings, invoices, receipts, vouches and memoranda of every description pertaining to work performed under this Contract for the purpose of verifying actual work performed. The Contractor shall make all efforts to accommodate such requests for audit by the City at any reasonable time.

18) Reserved

19) Waste

The Contractor shall be responsible for disposing of all trash, oil, oil filters, fluids, batteries, parts and all other waste generated in the repair/service requirements of this Contract. Price shall be included in the Contract cost. All such disposal must be in accordance with current city, county, state and Federal regulations and laws. The Contractor shall be responsible for training employees regarding working with hazardous materials. Additionally, the Contractor shall comply with all Federal "Right to Know" regulations and legislation. The Contractor shall hold the City harmless for any and all actions of the Contractor regarding storing, handling and disposal of waste.

20) City's Responsibilities

- a) Communicate regularly with the Contractor to resolve questions and issues on a daily basis.

- b)** Make all data available to the Contractor, which in the opinion of the City, is necessary to for the Contractor to provide quality service under the terms of this Contract.
- c)** Insure the Contractor has access to repair or maintain all vehicles and equipment under the terms of this Contract.
- d)** Provide purchasing support for any directed repairs as required.
- e)** Pay for all fuel for all vehicles and equipment except that owned and operated by the Contractor.

EXHIBIT B
OFFER SECTION

- A. OFFEROR**
Firm Name: Eaton Automotive
Contact Name: Donovan Eaton
Principal Address: 1151 E State Route 89A
Cottonwood, AZ 86326
Local Address: 1151 E State Route 89A
Cottonwood, AZ 86326
Phone: (928) 646-0316 Fax: _____
E-Mail: eatonautorepair.com
Type of Organization: Auto repair Tax ID #: 26-3962504
License #: 20418030 City of Cottonwood Business Registration #: 22-3653
- B. Exceptions to RFP:** _____
(See Information & Instructions §4.5.4 Exceptions to Solicitation and Section 1, paragraph 2 of the RFP)
- C. Disclosure of Debarment information:** N/A
(See Information & Instructions §4.5.5 Disclosure)
- D. Disclosure of Related Party Transactions:** _____
(See Information & Instructions §4.5.6 Related Party Transactions)
- E. COST:** Offeror will state a cost for:
a. Hourly rate for repairs. \$ 135.00
b. Hourly cost of overtime repairs. \$ 185.00
- F.** Offeror certifies that they _____ are or ☒ are not able to provide vehicle maintenance services for the entire fleet for the City of Cottonwood.
- G.** Offer certifies that they ☒ do or ☒ do not have a computerized records management system accessible by the City that contains the vehicle maintenance data. If Offer does have a computerized records management system, is the system capable of importing and exporting vehicle maintenance files? ☒ Yes _____ No
- H. PRICE MATRIX:** Offeror will provide the price matrix for percentage markup on parts and supplies for City repairs and maintenance.
- I. LIST OF MAJOR SUPPLIERS:** Napa, World Pac, O'Reilly's
OEM Dealerships

- J. **APPROACH TO PROPOSAL:** Offeror will describe their approach to the City's need for a fleet vehicle maintenance solution (attach as separate documents as needed). Please include what services are included/excluded from your proposal (examples may be: tires only, heavy diesel only, excludes heavy diesel, etc.)

No heavy diesel or anything over 1 Ton - No tires
No Windshields

TURNAROUND TIME: Offer will provide a turnaround time for all public safety vehicles of 5 days/hours.

K. **REFERENCES (Must be provided):**

Provide names, addresses and telephone numbers of a minimum of three (3) references (public or private sector) to which you have provided similar goods or equipment. An additional sheet may be attached if needed.

1. Entity: Right Choice Automotive
Address: 4335 N. 7th St Phx, AZ 85014
Contact: Steve Strickstein
Phone: 602-650-2277
Goods or Services supplied and when provided: Auto repair & maintenance

Duration of Contract: 2013-2018
2. Entity: Alliance Plumbing
Address: 2202 W. Huntington Dr. Tempe, AZ 85282
Contact: Benny Valdez
Phone: 480-785-7459
Goods or Services supplied and when provided: Auto repair & maintenance

Duration of Contract: 2015-2018
3. Entity: Arizona Wire, Rope & Rigging
Address: 2339 N. 34th Dr. Phx, AZ 85009
Contact: Bill Krause
Phone: 602-269-7878
Goods or Services supplied and when provided: Auto repair & maintenance

Duration of Contract: 2013-2017

- L. **FACILITY INFORMATION:** Offeror will state the location of their proposed facility, its principal maintenance and safety features (number of bays, lube racks, lifts, special equipment, etc.)

Facility Location: 1151 E State Route 89A Cottonwood, Az 86306

Principal Maintenance and Safety Features (attach as separate document if needed): I have 5 bays

1 lube racks, 5 lifts, I have a Computerized alignment machine, mig Welding machine, Oxy/acetylene torch, R134 AC recovery machine, digital lab scopes, Scan Tool, tire pressure monitor service tool, Coolant flush machine, Transmission flush machine, Computer Soft Ware, reprogramming equipment, Battery charging Starter test equipment, evap smoke machine, Brake lathes engine & four gas Analyzer

- M. **RECEIPT OF ADDENDUM:**

Offeror acknowledges receipt of the following Solicitation Addendum(s):

Addendum No.

Date

Fy23-AS-02

09/23/22

By signing below, the Undersigned certifies that the statements provided herein are accurate and certifies the intent to be bound by such statements.

Name of Contractor:

Donovan Eaton

Signature:



By:

Title: Owner / master Technician

Business Address: 1151 E State route 89A

Cottonwood, Az 86306

Telephone: 602-799-7455

Email Address: eatowat@gmail.com

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this 6th day of December, 2022, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and Hansen Enterprises Fleet Repair, LLC (the "Contractor").

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Contractor hereby agree as follows:

- A. Term of Agreement.** The initial term of this agreement shall be three (3) years following approval by the City Council. The City of Cottonwood may extend this contract for up to two (2) additional one (1) year periods at the sole discretion of the Cottonwood City Council.
- B. Scope of Services.** The Contractor shall provide the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- C. Compensation.** The City shall pay the Contractor for the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein, at the rates as set forth in the Offer Section, marked as Exhibit B and incorporated by reference herein.
- D. Payments.** The City shall pay the Contractor subject to the Contractor submitting monthly invoices to the City for each requested payment. Invoices shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- E. Insurance.** The Contractor shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Contractor shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood
Risk Manager
821 N Main Street
Cottonwood, AZ 86326
Telephone: (928) 340-2713 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Contractor's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail

to the City of Cottonwood Risk Manager. The Contractor's insurance must be primary, and any insurance or self-insurance maintained by the City shall be non-contributory. If any part of this Contract is subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

1. **Commercial General Liability** insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract.
2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Contractor's owned, hired, and non-owned vehicles.
3. **Worker's Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.
4. **Garage Keepers Liability** insurance with a minimum single limit of not less than two hundred fifty thousand dollars (\$250,000) per occurrence.

F. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Contractor, its agents, employees, or any tier of Contractor's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.

G. Applicable Law; Venue. In the performance of this Agreement, the Contractor shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

1. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, the Contractor shall be paid for all undisputed services performed to the termination date.
2. **For Cause.** This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.
3. **Due to Work Stoppage.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

4. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party of the Agreement with respect to the Agreement's subject.
5. **Gratuities.** The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor an amount equal to one hundred fifty percent (150%) of the gratuity.
6. **Fund Appropriation Contingency.** The Contractor understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

1. **Independent Contractor.** The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Contractor meets the requirements of its agreed scope of work as set forth in Section 2 above. The Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
2. **Laws and Regulations.** The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
3. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
4. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
5. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other

provision or application of the Agreement which may remain in effect without the invalid provision or application.

6. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.
7. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
8. **Assignment.** No right or interest in this Agreement shall be assigned by the Contractor without prior, written permission of the City and no delegation of any duty of the Contractor shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Contractor in violation of this provision shall be a breach of this Agreement by the Contractor.
9. **Subcontracts.** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used.
10. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as 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 this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
11. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
12. **Liens.** All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
13. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or

certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Hansen Enterprises Fleet Repair LLC

City of Cottonwood (Owner)

c/o David Wittmayer

c/o Contract/Purchasing Administrator

4682 Old State Hwy 279

821 N Main Street

Camp Verde, AZ 86322

Cottonwood, AZ 86326

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

- 14. Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Contractor as needed for the performance of duties under this Agreement.
- 15. Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in 9.13. Within ten (10) days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
- 16. Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.
- 17. Compliance with Federal Immigration Laws and Regulations.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and

complies with A.R.S. § 23-214.A. Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

18. **Forced Labor of Ethnic Uyghurs.** In accordance with A.R.S. §35-394. The contractor is not currently and for the duration of the contract will not use the forced labor of ethnic Uyghurs in the People's Republic of China including goods, services, contractors, subcontractors, or suppliers thereof."

Federal Transit Administration Requirements

A portion of the funding for this contract will be from CFDA 20.509 Formula Grants for Non-Urbanized Areas, from the Federal Transit Administration and Arizona department of Transportation.

19. **Charter Bus Requirements.** Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and sub recipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
20. **Energy Conservation.** Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.
21. **Clean Water.** All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
22. **Lobbying.** Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.
23. **Access to Records and Reports.** The following access to records requirements apply to this Contract:

Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49

CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

24. **Federal Changes.** Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.
25. **Clean Air.** Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
26. **Contract Work Hours & Safety Standards Act.** Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any

workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

- 27. No Government Obligation to Third Parties.** The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- 28. Program Fraud and False or Fraudulent Statements or Related Acts.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
- 29. Government Wide Debarment and Suspension (Non Procurement).** The Recipient agrees to

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

- 30. Civil Rights Requirements.** The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service: a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute): (1) FTA’s “Nondiscrimination” statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program, b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued, c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of

1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation, e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20

U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance, h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2, i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited

by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination. k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

- 31. Breaches and Dispute Resolution.** Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 32. Disadvantaged Business Enterprise.** a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Arizona DBE goal is 3.82% race neutral. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere. b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that

work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work. f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

33. **Prompt payment.** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.
34. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.
35. **Drug and Alcohol Abuse and Testing.** The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), " 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.
36. **Other Federal Requirements.** The following requirements are not federal clauses.
37. **Full and Open Competition.** In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.
38. **Prohibition Against Exclusionary or Discriminatory Specifications.** Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.
39. **Conformance with ITS National Architecture.** Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
40. **Access Requirements for Persons with Disabilities.** Contractor shall comply with 49 USC

5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

41. **Notification of Federal Participation.** To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.
42. **Interest of Members or Delegates to Congress.** No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.
43. **Ineligible Contractors and Subcontractors.** Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.
44. **Other Contract Requirements.** To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.
45. **Compliance with Federal Regulations.** Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
46. **Real Property.** Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
47. **Access to Services for Persons with Limited English Proficiency.** To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

48. **Environmental Justice.** Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,
49. **Environmental Protections.** Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.
50. **Geographic Information and Related Spatial Data.** Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.
51. **Geographic Preference.** All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).
52. **Catalog of Federal Domestic Assistance (CFDA) Identification Number.** The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.
53. **CFDA number for the Federal Transportation Administration.** A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
54. **Compliance with Regulations.** The SUBRECIPIENT shall comply with the regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (USDOT), 49 CFR 21 and Executive Order 99-4, as they may be amended from time to time, which is herein incorporated by reference and made a part of the Agreement.
55. **Nondiscrimination.** The SUBRECIPIENT, with regard to the work performed by it during the Agreement will not discriminate on the grounds of race, color, disability, sex, or national origin in the selection and retention of contractors and subcontractors, including procurement of material and leases of equipment. The SUBRECIPIENT will not participate either directly or indirectly in

discrimination prohibited by 49 CFR 21.5, including employment practices when the Agreement covers a program set forth in Appendix A of 49 CFR part 21.

- 56. Solicitations for contractors, including procurement of real property, materials, and equipment.** In all solicitations made by competitive bidding or negotiation by the SUBRECIPIENT for work to be performed under a contract or subcontract, including procurement of real property, materials, and purchase or lease of equipment, each potential contractor, subcontractor, supplier, or lessor shall be notified by the SUBRECIPIENT of the SUBRECIPIENT's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, disability, sex, or national origin. Any contract or agreement established shall contain the language from this Agreement's Appendix A and B, and where appropriate, Appendix C.
- 57. (4) Information and Reports.** The SUBRECIPIENT shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by ADOT, FHWA, and FTA to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of the SUBRECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, the SUBRECIPIENT shall so certify to ADOT, FHWA, and FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 58. (5) Sanctions for Non-Compliance.** In the event of the SUBRECIPIENT's non-compliance with the non-discrimination provisions of this Agreement, ADOT shall impose such sanctions as it, FHWA and FTA determine to be appropriate, including, but not limited to: withholding of payments to the SUBRECIPIENT under the Agreement until the SUBRECIPIENT complies, and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

Contractor

Company Name

Printed Name

Signature

Date of Signing

Title

City of Cottonwood

Tim Elinski, Mayor

Date of Signing

Attest:

Marianne Jiménez, City Clerk

Approved as to form:

Steve Horton, City Attorney

EXHIBIT A

SPECIFICATIONS / SCOPE OF WORK

SPECIFICATIONS

The City of Cottonwood (City) is soliciting firms to provide vehicle fleet maintenance operations **on all or a part** of the City's fleet vehicles. Maintenance will include:

- A. All routine scheduled maintenance per the manufacturers' recommended schedule (See Special Conditions).
- B. All warranty work for vehicles with existing warranty must be completed by the appropriate factory dealer.
- C. All evaluation of newly acquired vehicles and equipment.
- D. All unscheduled repairs.
- E. All requested work (prices to be quoted separately from proposed annual costs).

REQUIREMENTS

- A. All mechanics must be ASE (Automotive Service Excellence) certified and will maintain certification during the contract period. No uncertified mechanics will be allowed without prior written permission from the City. If mechanics are not certified to work on specialized equipment on City vehicles, the City may take vehicles to a mechanic who is certified to perform that specific task, **but only after written documentation from Contractor is obtained stating that the Contractor does not perform that type of work or cannot in a timely manner.**
- B. The Contractor will propose a cost for all work by an hourly rate and an overtime rate.
- C. All parts used in scheduled or unscheduled maintenance will be at a discount from a national chain of original equipment manufacturer (OEM) and/or aftermarket parts provider (i.e., NAPA, AutoZone, CARQUEST, etc.). Provider must state discount percentage with the Request for Proposals (RFP) response.
- D. Turnaround time: Contractor will propose repair/scheduled maintenance times prioritized for public safety vehicles first, all other vehicles and equipment second.
- E. Contractor must be capable of providing basic maintenance for specialized equipment such as construction equipment, electronics for police lights and radios, etc. and/or making recommendations for possible outsourcing of items beyond their capabilities.
- F. All overtime must be authorized by the City in advance of transportation, repair or maintenance. The hourly overtime rate as stated in the proposal shall be used. Other costs of this service will be negotiated with the Contractor.
- G. The City will have full and complete access to monitor and audit operations, bookkeeping, and parts inventories.
- H. Contractor may, at their option, evaluate City vehicles prior to proposal opening. The City will make inspection opportunities available.
- I. Contractor will supply a safe, suitable facility, all fixed equipment (lube racks, etc.) shop supplies and allow safety inspections by the City. **To perform certain maintenance tasks on some Transit Buses and other large heavy diesel vehicles, the Contractor must be able to service vehicles up to 35' in length and 26,000 lbs. GVW.** The City will incur no liability for shop accidents or accidents occurring

during transportation or testing, or any other vehicle/equipment operations. The Contractor must be willing to accept the City's indemnification terms and hold the City harmless from any incidents or accidents arising in shop or testing operations.

- J. Contractor must be bonded and insured and shall remain bonded and insured during the term of the Contract and any and all Contract extensions as per the Information and Instructions to Offerors.
- K. The City, at its discretion, may prioritize the sequence of vehicles scheduled for maintenance or repair. The City will provide prioritization as required.
- L. Contractor must have secure storage space for vehicles awaiting parts or repair.
- M. Contractor must be able to perform scheduled maintenance.
- N. Contractor will dispense fluids and lubricants from fifty-five (55) gallon drums as opposed to quart or gallon containers when the cost of doing so is beneficial to the City.
- O. Contractor must request and receive permission from the City if any City-owned equipment is sent offsite for work that is beyond the capability of the Contractor (i.e., radios, CAD systems, radar and license plate reading equipment, bus ramps, etc.).
- P. If a vehicle or equipment is outsourced for repair or parts, the Contractor will bill the City not more than an agreed upon percentage of markup for parts, labor and shipping/transportation.
- Q. Contractor will provide all tools. If the City owns any equipment-specific tools, they will be made known and available to the Contractor. Depending on the cost to the City, special tools, TMDE (Test, Measurement and Diagnostic Equipment) may be loaned, rented or leased to the Contractor.

SPECIAL CONDITIONS

- A. **Term of Contract:** Term of this Contract will be three (3) years with options to renew for two (2) additional one (1) year periods at the discretion of the City.
- B. **Introduction:** The City of Cottonwood (City) is requesting proposals from experienced and qualified firms for the maintenance of the City's vehicle and equipment fleet. The awarded Contract(s) shall be for a three (3) year period with options to renew for two (2) additional one (1) year periods. **The City desires to obtain multiple providers** for various fleet maintenance services. The contracted provider shall determine if any work is beyond their capability and therefore should be outsourced.
- C. **Description of Government:** The City of Cottonwood is located in the center of the State of Arizona and provides a full spectrum of municipal services including public safety, parks and recreation, streets and highways, public improvements, water, wastewater treatment, storm water utilities, libraries and general administration services. The City is managed under a Mayor and Council form of government consisting of a Mayor, Vice Mayor and five (5) Council Members.
- D. **Format:** The City is interested in a brief, concise proposal not exceeding thirty-five (35) single sided pages and must address the requirements requested by the City. Proposals not conforming to the requirements of this RFP may be disqualified. It is expected that all proposals will fit the proposed format. However, it is expected that some exceptions shall be taken by Contractors. In the case of exceptions, a separate binder must be included with the offer labeled "Exceptions" with only one (1) exception per page listed in the following format:
 - 1. Page number of exception.
 - 2. Section number of exception.

3. Actual language in the request.
4. Language Contractor proposes.
5. Specific language change must be underlined and highlighted.

Example:

Page 14
Section 2.5
Vehicle Preparation
Original language
Proposed language

- E. Vehicle Assessment:** If needed, the Contractor shall conduct an assessment of currently owned vehicles and equipment in order to establish a baseline for vehicle/equipment condition and/or make recommendations to bring vehicles/equipment up to proper working condition. Assessments shall be billed at the contracted hourly rate.

Upon request by the City, the Contractor shall conduct an assessment of newly acquired vehicles and equipment for service. Assessments shall be billed at the contracted hourly rate.

Vehicle assessment shall include (but not be limited to):

- 1) Headlights.
 - a) high beam
 - b) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.
- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) All interior lights.

- 17) Fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Battery, charging system, terminals and cables and battery box.
- 19) Heating and air conditioning systems.
- 20) Frame, cross members and body joints.
- 21) Operation of the engine starting system circuit.
- 22) Drive shaft, U-joints, CV joints and boots.
- 23) Fuel, oil, coolant or other fluid leaks.
- 24) Air and emission filters and valves.
- 25) Hoses, clamps and belts.
- 26) Operation of all gauges.
- 27) All grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Engine oil and filter.
- 29) Tires.
- 30) Body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Air filter.
- 32) Items included in tune up.
- 33) Brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as required.
- 34) Perform road test to detect any deficiencies.

SCOPE OF SERVICES

- A. The Contractor shall provide preventive, maintenance, remedial repairs/overhaul, minor repairs from accidents, misuse, abuse or vandalism, welding, fabrication, and all motor services currently outsourced by the City.

The Contractor shall furnish all required supervision, labor, tools (specialty and hand tools), TMDE, parts, supplies and materials to maintain the fleet in a state of repair and service consistent with generally accepted fleet practice and as defined in this RFP. The successful Contractor shall supply their own equipment (including vehicles), fuel, and maintenance for road services, parts running, etc. Additionally, the Contractor must provide a fully staffed maintenance operation for a minimum of Monday – Friday from 8:00 AM to 5:00 PM each week.

It is understood that not all providers will be able to service the entire City fleet. It is the City's intention to award agreements to multiple shops. Please note in proposals what type/kind of services your firm is able to provide under an agreement resulting from this procurement.

1. Preventive Maintenance

It is the responsibility of the Contractor to implement a preventive maintenance (PM) program to service City vehicles. Preventive maintenance shall be defined as scheduled routine inspection, servicing, repair and replacement of equipment components on a regular basis to facilitate

operations with a minimum of downtime. The PM program shall be presented in detail in the proposal and shall be designed in accordance with recognized good fleet management practice and meet or exceed the terms and conditions required to comply with the OEM specifications. The proposed PM shall at a minimum, include the specifications outlined herein but is subject to modification upon mutual agreement of the city and the awarded Contractor. It is therefore critical that each proposal be submitted exactly as explained below. All management functions of the fleet shall remain with the City unless exceptions are noted below. Non-conforming proposals may be eliminated.

2. Preventive Maintenance Program

Preventive maintenance shall be performed on City vehicles and equipment.

3. Preventive Maintenance Scheduling

Preventive maintenance shall be scheduled on a usage basis with calendar time override. That is, each Contract vehicle and piece of equipment shall be scheduled for preventive maintenance based on a usage limitation (miles or hours) or time since the last PM, whichever comes first. (CAT/LYNX buses have their own PM Schedules based on miles and compliant with ADOT/FTA/DOT regulations). The Contractor shall complete and file an “inspection form” approved by the City for each PM performed on each vehicle and piece of equipment.

It shall be the City responsibility to develop and implement a PM scheduling system that provides immediate notification to the City’s operating departments when PMs are scheduled for vehicles and equipment. This schedule shall provide for three (3) days advance notice of scheduled service. The Contractor’s Site Manager shall work with the City Contract Manager to schedule actual dates of service.

4. Preventive Maintenance Performance

The timely performance of preventive maintenance is the responsibility of the Contractor for all vehicles and equipment. The only authorized exception to this section shall be when a vehicle or piece of equipment fails to be presented by the operating department. In such an instance, written notification shall be provided to the City detailing dates, times, department, vehicle number, and name of the department manager notified so that the City may address the problem.

5. Preventive Maintenance Intervals

Preventive maintenance services and service intervals shall meet all specifications listed in Section 10 or exceed OEM recommendations for such service. The program is subject to modification upon mutual agreement of the City and the awarded Contractor.

6. Preventive Maintenance Scheduling for New Equipment

As part of placing in service newly acquired vehicles and equipment, the Contractor’s Site Manager and the City shall jointly review and establish the proposed PM schedule to be specifically followed for that vehicle or piece of equipment.

7. Preventive Maintenance Oil Analysis Program

Upon the City’s request, the Contractor shall provide an oil sampling program for use as a diagnostic aid in determining service levels, repairs and intervals along with adjusting vehicle replacement schedules. The oil sampling program shall include but not be limited to the following:

- a. All diesel and auxiliary engines.

- b. Hydraulic systems for personnel aerial lift devices, boom trucks, ladder trucks, etc., exclusive of hydraulic brake systems.
- c. All construction equipment so designated by the City and agreed to by the Contractor, which may or may not fall into the range of equipment designated above.

Any requested oil sampling services shall be billed at the contracted hourly rate.

8. Preventive Maintenance Coolant Analysis Program

Upon the City's request, the Contractor shall provide a coolant sampling program for use as a diagnostic aid in determining coolant/filter change intervals along with detection of engine cooling problems. This program is to include all liquid cooled engines.

Any requested coolant system analysis services shall be billed at the contracted hourly rate.

9. Personal Lift Device Inspection and Certification

The Contractor shall develop and implement an annual program for the inspection and certification of all City owned personal lift devices in accordance with state, Federal or local standards. The inspections shall be completed by a certified inspector hired by the Contractor once per year. Each fifth year the vehicle shall be transported to the manufacturer's distributor or City approved vendor for its five (5) year inspection and rebuild as required. A written report of findings, corrective actions taken and certification shall be provided to the City, Risk Manager and operating department. Additionally, a copy shall be included in the individual equipment vehicle files maintained by the Contractor for the City. The Contractor shall be responsible for the certification and cost of the certification including mandatory rebuilds of these devices included in the contract cost.

10. Preventive Maintenance (PM) Schedule

Preventive Maintenance (PM) shall be performed according to manufacturer's requirements. The items listed below shall also be performed at each PM.

Safety checklist: The following items must be inspected at every PM:

- 1) Headlights.
 - c) high beam
 - d) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.

- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) Inspect all interior lights.
- 17) Inspect fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Inspect battery, charging system, terminals and cables and battery box.
- 19) Inspect heating and air conditioning systems.
- 20) Inspect frame, cross members and body joints.
- 21) Inspect operation of the engine starting system circuit.
- 22) Inspect drive shaft, U-joints, CV joints and boots.
- 23) Inspect any fuel, oil, coolant or other fluid leaks.
- 24) Inspect air and emission filters and valves as needed.
- 25) Inspect hoses, clamps and belts.
- 26) Inspect operation of all gauges.
- 27) Inspect all grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Inspect engine oil and filter.
- 29) Inspect tires as required.
- 30) Inspect vehicle for body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Inspect air filter as necessary. Must be completed at a minimum of twelve (12) months or 12,000 miles whichever occurs first.
- 32) Inspect brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as needed to ensure proper functioning. **NOTE:** Every brake job shall include a new brake hardware kit including springs, hold downs, rollers, etc.
- 33) Perform road test and correct any deficiencies.

a. Tractors / Heavy Equipment / Diesel / Specialty Equipment

Tractors (farm type), fire trucks, diesel powered equipment, and other heavy/specialized equipment **may be excluded from this agreement as determined by the City.**

b. Trailers

Light Duty Trailers (up to one ton) - conduct a semi-annual safety inspection, complete lubrication, repack wheel bearings and repair as required.

Heavy Duty Trailers (exceeding one ton) - provide quarterly safety inspections and complete repair and lubrication including operation of any attachments such as winches, ramps, gates, etc., in accordance with Federal Motor Carrier regulations.

c. Ancillary Services

1) Quick Fix

The Contractor will provide a quick fix solution for repairs of less than one (1) hour duration. This service shall be offered at all times during normal hours of business operation as part of the Contract cost. Typical quick fix repairs may include but are not limited to lights, wiper blades, battery replacements, etc.

2) Parts

The Contractor shall be responsible for purchasing and maintaining the entire parts and supplies inventory for all commonly used parts, lubricants, tools and operating supplies (hereafter “parts”) that are required for preventive maintenance services. All parts shall meet or exceed OEM specifications. The Contractor shall manage the inventory consistent with good inventory management practices.

The Contractor shall set inventory levels in a realistic manner to support the number and type of vehicles operated by the City. The City shall have oversight of inventories and may adjust quantities up or down. The City reserves the right to reject parts not meeting OEM specifications.

If the Contract is severed prior to the end of the Contract period, the City will purchase the remaining inventory from the Contractor at the actual cost paid. Therefore, it is imperative that the Contractor maintain an accurate accounting of inventory value at all times during the term of the Contract.

3) Training

The Contractor shall provide continuous training for his/her employee. The City shall be made aware of all training. Systems included on CATS/LYNX Buses should be considered in regards to contractor’s employee training.

4) Re-Repair

Re-repair is the repair of the same failure within the warranty period due to parts failure, mis-diagnosis or mechanic error. The Contractor shall track and identify re-repair work and shall not include the cost of re-repairs, parts, labor or supplies in the monthly statement.

1) Misuse, Abuse or Negligence of Equipment

The City wishes to have any knowledge of equipment misuse, abuse or negligence by its employees. The Contractor shall be required to submit suspected reports of misuse, abuse or neglect to the City in any case where evidence provides reasonable cause to suspect misuse, abuse or negligence. The Contractor will inform the City via email or telephone immediately, followed by a written report.

2) Welding and Fabrication

Welding and fabrication are integral parts of fleet maintenance operations and all costs including welding rod, wire, supplies, protective clothing and equipment and all materials (steel aluminum, etc.) are the responsibility of the Contractor. All welding and fabrication requirements as part of repairs shall be performed at all times during the term of the Contract period.

Welding and fabrication required as part of repairs shall be billed at the contracted hourly rate.

3) Fleet Management Information System

The Contractor shall own and provide the Fleet Management System. It will be operated by the Contractor and 100% access to the City's records shall be available to the City with unrestricted access at all times via the internet.

4) Fleet Management Reporting Requirements

The Contractor shall provide the City or designee access at all times to electronic data, books, records, correspondence, instructions, plans, drawings, receipts, invoices, vouchers and memoranda of every description, pertaining to the work under the Contract for the purposes of audit and verification of work performed.

The information system shall provide records on all repairs and services performed for each vehicle and piece of equipment. Under no circumstances shall the originally assigned City equipment number be changed or altered and all record entries shall utilize the original vehicle/equipment number. All previous history with the vehicles and equipment shall remain intact with the originally assigned City equipment number. The Contractor shall enter daily, all repair work order data including labor, contracted services, parts transactions, fuel charges and other data deemed necessary by the City. The Contractor shall provide work orders, PM inspection reports and other special forms necessary for meeting the requirements of this Contract.

At the termination of the contract, the Contractor shall provide a digital record of all vehicles detailing the services provided for each vehicle. This record must be in a format that can be utilized by the City and/or another maintenance provider.

5) Files

The Contractor shall maintain a complete file of service manuals, service bulletins, lubrication charts and other information necessary to properly service all City vehicles and equipment. A computer database is sufficient to meet this requirement.

A history shall be maintained by the Contractor for each City vehicle and piece of equipment. This folder shall contain, in chronological order, all work orders generated specific to the vehicle or equipment, correspondence of any nature pertaining to the vehicle or equipment such as manufacturer's recall orders or service bulletins and memoranda pertaining to service and repairs. Additionally, all vehicle and equipment folders shall contain information such as make, year, model, vehicle identification number (VIN) and a spare set of keys where applicable.

6) Outside Repairs

The Contractor shall be responsible for arranging and managing the conduct of outside repairs which cannot be economically performed in house and shall be responsible for continuing review of the need for specific outside repairs as opposed to performing such work in house. These outside repairs may include transmission overhaul and repair, radiator repair, engine overhaul and repair, hydraulic system

repair or overhaul, major equipment overhaul or repair and other such works orders done to minimize the City's down time. Outside repairs shall be discussed with the City to ensure the outside versus inside repair decision remains justified. All responsibility, paperwork, invoicing, quality control, vehicle movement to and from outside repair facilities, costs, vehicle security, etc., shall be the responsibility of the Contractor and part of the Contract cost.

7) Subcontracting

The Contractor may subcontract services with prior approval of the City. No such approval shall be construed as making the City a party of or to such subcontract or subject the City to liability of any kind to the subcontractor. No subcontract of any kind shall under any circumstance, relieve the Contractor of its liability and obligation under the Contract and despite any subcontract, the City shall deal through the Contractor and subcontractors shall be dealt with as workmen and representatives of the Contractor.

The City reserves the right to request more than one (1) proposal for any subcontract work and shall have the right to approve or disapprove the subcontractor. The Contractor's plan for subcontract repair shall be stated in the proposal. All subcontract repair costs shall be the Contractor's responsibility and included in the Contract cost.

Directed items for repair not covered in this Contract but deemed necessary by the City to keep the fleet in a well maintained condition shall also be included in the Contract cost.

Directed repairs for items not covered in this Contract which are not considered to be necessary for proper fleet maintenance shall not be included in the Contract cost but shall be invoiced time plus actual parts and materials cost. The time charge for such repairs shall not exceed that published in the MITCHELL flat rate table, latest edition if work is automotive related. All welding and fabrication functions as described above are included in the Contract cost and therefore not subject directed repair costs.

8) Emergency Conditions

The Contractor shall mobilize the shop and provide repair and maintenance services for the duration of emergency situations such as flood, hurricane, snow storm, earthquake, fire, tornado, etc. and other emergencies declared by the Mayor. Such service shall include adequate staffing to ensure continuous twenty-four (24) hour support for the emergency period or required by the Mayor or designee. Such circumstances may occur outside normal hours of business operation and can involve any number of employees or equipment. Costs incurred for operations outside of normal duty hours shall be billed at a rate of no more than the agreed hourly or overtime labor costs plus cost of parts and materials. Services provided outside the scope of work of the Contract shall be billed separately. Staffing levels during emergencies shall be approved by the City.

Repair priorities in emergency situations may be revised by the Mayor or designee.

9) Facilities

A facility to be owned or leased and operated by the Contractor shall be included in the Contract cost and subject to approval by the City prior to the start of the Contract. All costs for necessary operational requirements such as water, electricity, HVAC, telephone, gas, propane, garbage and hazardous waste disposal, recycling of batteries, coolant, Freon, oil and fluids, etc., shall be borne by the Contractor and included in

the proposed Contract price. This shall include any maintenance costs to the structure or systems such as plumbing, HVAC, electrical, etc. These costs shall be included in the proposed Contract price.

10) Permits, Licenses and Fees

All permits, licenses and fees required for the Contractor to conduct all requirements of this Contract shall be the responsibility of the Contractor. Any non-compliance items discovered by OSHA, Department of Environmental Protection (DEP), American National Standards Institute (ANSI), etc. shall be the responsibility of the Contractor and must be corrected, repaired, or replaced as required and brought into conformance without undue delay. All costs for compliance fines levied shall be the responsibility of the Contractor.

11) Tools and Equipment

The Contractor must provide all equipment, tools, hoist, lifts, drains, and office furniture except that used by the City. The Contractor may provide or purchase other equipment with his/her own funds and shall be wholly owned by the Contractor. Installation of such equipment is subject to approval by the City.

12) Quality Assurance Program

The Contractor shall provide the City a Quality Assurance Program for the maintenance of City vehicles and equipment.

Performance standards shall include, as a minimum, as follows:

- a) Fleet availability.
- b) Manufacturer's warranties.
- c) PM Performance.
- d) Repair performance.
- e) Parts availability.

13) Repair Priority

The Contractor shall provide preventive maintenance, scheduled and unscheduled repairs to vehicles in a priority set by the City.

14) Hours of Operation

The Contractor's shop shall be open, a minimum of, Monday through Friday from 8:00 AM to 5:00 PM. The Contractor may vary operating hours only upon approval of the City. Vehicles and equipment will be accepted for PM's or repair during these hours. The Contractor may, at their option, work on City vehicles and equipment on scheduled City holidays but will not be required to accept vehicles and equipment for PM or repair during holidays. Contractor must be available or arrangements shall be made for weekend and holiday drop-offs (primarily for Public Safety and Transit). City holidays observed are as follows:

- New Year's Day
- Martin Luther King, Jr./Civil Rights Day

- President's Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- The Day After Thanksgiving
- Christmas Day

15) Investigation

The Contractor shall support the City with technical investigations related to the fleet. Such investigations may include accidents, abuse, or other issues of a technical nature.

16) Inspection of Work

The Contractor shall furnish the City or designated representative every reasonable opportunity for inspection to determine if work is being performed per the terms of this Contract. The City shall provide a twenty-four (24) hour notice of such inspection.

17) Auditing of Contractor

The City or designee shall have access to all of the Contractor's personnel books, records, invoices, correspondence, instructions, plans, drawings, invoices, receipts, vouches and memoranda of every description pertaining to work performed under this Contract for the purpose of verifying actual work performed. The Contractor shall make all efforts to accommodate such requests for audit by the City at any reasonable time.

18) Reserved

19) Waste

The Contractor shall be responsible for disposing of all trash, oil, oil filters, fluids, batteries, parts and all other waste generated in the repair/service requirements of this Contract. Price shall be included in the Contract cost. All such disposal must be in accordance with current city, county, state and Federal regulations and laws. The Contractor shall be responsible for training employees regarding working with hazardous materials. Additionally, the Contractor shall comply with all Federal "Right to Know" regulations and legislation. The Contractor shall hold the City harmless for any and all actions of the Contractor regarding storing, handling and disposal of waste.

20) City's Responsibilities

- a) Communicate regularly with the Contractor to resolve questions and issues on a daily basis.

- b)** Make all data available to the Contractor, which in the opinion of the City, is necessary to for the Contractor to provide quality service under the terms of this Contract.
- c)** Insure the Contractor has access to repair or maintain all vehicles and equipment under the terms of this Contract.
- d)** Provide purchasing support for any directed repairs as required.
- e)** Pay for all fuel for all vehicles and equipment except that owned and operated by the Contractor.

EXHIBIT B - OFFER SECTION

Firm Name: Hansen Enterprises Fleet Repair, LLC

Contact Name: David Wittmayer

Principal Address: 4682 Old State Hwy 279
Camp Verde, AZ 86322

Local Address: 4682 Old State Hwy 279
Camp Verde, AZ 86322

Phone: 928-567-9140

Fax: 928-56--0143

E-Mail: dwittmayer@hefrshop.com

Type of Organization: Auto / Truck Repair Shop

Tax ID #: 75-3080521

License #: 13044625

City of Cottonwood Business Registration #: _____

B. Exceptions to RFP: See attached documents.

C. (See Information & Instructions §4.5.4 Exceptions to Solicitation and Section 1, paragraph 2 of the RFP)

D. Disclosure of Debarment information: _____

(See Information & Instructions §4.5.5 Disclosure)

E. Disclosure of Related Party Transactions: _____

(See Information & Instructions §4.5.6 Related Party Transactions)

F. **COST:** Offeror will state a cost for:

- a. Hourly rate for repairs. \$ 185.50
- b. Hourly rate for Testing \$ 205.50
- c. Hourly rate for Labor Intensive work, this is work where there is a lot of labor time involved but the parts charge is less than 10% of the labor charge. \$ 205.50
- d. Hourly cost of overtime repairs. 1.5 times the hourly rate.
- e. Call out charge, for work done off site, holidays or being called in after hours will be \$ equal to one (1) hour at the overtime rate.
- f. Labor for work done off site, or being called in after hours will be billed at the overtime rate, with a 2 hour minimum. The charged time will start when the call is received and end when the person, doing the work is back to where they started from, when the call came in.
- g. Escalator – all labor rates and callout charges may increase yearly, by no more than \$25.00, per hour. Rate increases are expected to take place in January, of each year, but may take place at any time.

G. Offeror certifies that they _____ are or X are not able to provide vehicle maintenance services for the entire fleet for the City of Cottonwood.

H. Offer certifies that they X do or do not have a computerized records management system accessible by the City that contains the vehicle maintenance data. If Offer does have a computerized records management system, is the system capable of importing and exporting vehicle maintenance files? Yes X No

I. **PRICE MATRIX:** Offeror will provide the price matrix for percentage markup on parts and supplies for City repairs and maintenance.

- a. Parts Matrix
 - Between \$.01 and \$1.00 the markup is 385%
 - Between \$1.01 and \$5.00 the markup is 345%
 - Between \$5.01 and \$10.00 the markup is 295%

- Between \$10.01 and \$75.00 the markup is 275%
- Between \$75.01 and \$150.00 the markup is 250%
- Between \$150.01 and \$450.00 the markup is 210%
- Between \$450.01 and \$750.00 the markup is 185%
- Between \$750.01 and \$1050.00 the markup is 180%
- Between \$1050.01 and \$1550.00 the markup is 165%
- Between \$1550.01 and \$99,999,999.99 the markup is 135%

J. SHOP SUPPLIES CHARGES: Shop Supplies charges are 8% of labor charges with a maximum of \$49.93.

K. DISCOUNTS: none are offered.

- Sometimes, Hansen Enterprises Fleet Repair, LLC, may mark the parts up less than the price matrix. This is solely at their discretion. If this happens, it is to be considered a onetime event, it is NOT setting a precedent for future parts pricing.
- Sometimes, Hansen Enterprises Fleet Repair, LLC, may charge less for labor than the agreed upon amount. This is solely at their discretion. If this happens, it is to be considered a onetime event, it is NOT setting a precedent for future labor pricing

L. Warranty Period: The warranty / guarantee period will be 4 months or 4,000 miles, whichever comes first.

M. LIST OF MAJOR SUPPLIERS: RWC International, Velocity Truck Center, Rush Truck Centers, Factory Motor Parts, NAPA, O'Reilles Auto Parts, Midway Auto Group, Larry Green Chevrolet,

N. APPROACH TO PROPOSAL: Offeror will describe their approach to the City's need for a fleet vehicle maintenance solution (attach as separate documents as needed). Please include what services are included/excluded from your proposal (examples may be: tires only, heavy diesel only, excludes heavy diesel, etc.)

We propose to service and maintain the entire CATS transit bus fleet, this includes CATS, Shuttle, Lynx, Para Transit and the supervisor vehicles.

We will work on the Utilities Department bucket truck, the 2014 Freightliner M2 and the Diamond Cargo Trailer.

We will work on the Public Works 2006 & 2007 International dump Trucks as well as the 2007 Ford F750 Water truck.

We may, at our discretion, work on other diesel powered vehicles, or vehicles larger than one ton, or equipment or trailers owned by the City of Cottonwood.

Excluded are any vehicles or types of vehicles not listed above, Tires, Glass replacement (unless the glass comes in a frame that we can unfasten and refasten), Body and Paint work, and alignments.

TURNAROUND TIME: Offer will provide a turnaround time for all public safety vehicles of N/A days/hours.

To the best of our ability, we will strive to get vehicles worked on promptly and back in service. However, due to the many circumstances beyond our control cannot state a turnaround time. We will strive to keep the supervisor or driver updated as to the progress of the work.

O. REFERENCES (Must be provided):

Provide names, addresses and telephone numbers of a minimum of three (3) references (public or private sector) to which you have provided similar goods or equipment. An additional sheet may be attached if needed.

1. Entity: Y A V A P A I A P A C H E P U B L I C W O R K S

Address: 2400 W. DATSI, CAMP VERDE 86322

Contact: Stacy Bates

Phone: 928-830-3402

Goods or Services supplied and when provided:

Maintenance & repair of transit system busses, from the middle of 2018 to date.

Duration of Contract: N / A

2. Entity: Goettls High Desert Mechanical

Address: 4650 W. OLD HWY 279, Camp Verde, AZ 86322

Contact: Ted Johnson

Phone: 928-821-5861

Goods or Services supplied and when provided: Maintenance & repair of transit system busses, from the middle of 2005 to date.

Duration of Contract: N / A

3. Entity: Cottonwood Area Transit

Address: 340 HAPPY JACK WAY, Cottonwood AZ 86326

Contact: Wade Babcock

Phone: 928-399-0659

Goods or Services supplied and when provided: Maintenance & repair of transit system busses, from 2016 to date.

Duration of Contract: N/A

P. FACILITY INFORMATION: Offeror will state the location of their proposed facility, its principal maintenance and safety features (number of bays, lube racks, lifts, special equipment, etc.)

Facility Location: 4682 Old State Hwy 279, Camp Verde, AZ 86322

Principal Maintenance and Safety Features (attach as separate document if needed):

The shop has (5) 20' X 40' bays that are 18 feet tall.

A two post lifted rated at 16,000 pounds.

A four post lift rated at 25,000 pounds.

The building and parking lot are fenced and locked at night.

The most commonly used diesel engine oil, is in a bulk tank with oil reels for dispensing.

Other commonly used fluids are purchased in smaller bulk containers, ie. 5 gallon pails, 15 gallon drums and 55 gallon barrels.

The least used fluids are purchased by the quart or gallon.

There are several scan tools that cover cars and light trucks from 1980 to present.

We have International OE diagnostic software and repair information.

We have Cummins engine OE diagnostic software.

We have access to almost all vehicle diagnostic and repair information on a short term basis.

Training has been attended for both Ricon and Braun commercial wheel chair lifts.

We have worked on the Intermotive fast idle / lockout systems in the transit busses.

We have the software to diagnose and repair the Air Lift and Valid air suspensions on the transit busses.

We are an authorized Creative Bus warranty center.

Q. RECEIPT OF ADDENDA:

Offeror acknowledges receipt of the following Solicitation Addendum(s):

Addendum No.

By signing below, the Undersigned certifies that the statements provided herein are accurate and certifies the intent to be bound by such statements.

Name of Contractor: Hansen Enterprises Fleet Repair, LLC

Signature: David S. Wittmayer

By: David Wittmayer

Title: Member (owner)

Business Address: 4682 Old State Hwy 279

Camp Verde, AZ 86322

Telephone: 928-567-9140

Email Address: dwittmayer@hefrshop.com

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this 6th day of December, 2022, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and Reese's Tire & Automotive Tire Pro's (the "Contractor").

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Contractor hereby agree as follows:

- A. Term of Agreement.** The initial term of this agreement shall be three (3) years following approval by the City Council. The City of Cottonwood may extend this contract for up to two (2) additional one (1) year periods at the sole discretion of the Cottonwood City Council.
- B. Scope of Services.** The Contractor shall provide the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- C. Compensation.** The City shall pay the Contractor for the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein, at the rates as set forth in the Offer Section, marked as Exhibit B and incorporated by reference herein.
- D. Payments.** The City shall pay the Contractor subject to the Contractor submitting monthly invoices to the City for each requested payment. Invoices shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- E. Insurance.** The Contractor shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Contractor shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood
Risk Manager
821 N Main Street
Cottonwood, AZ 86326
Telephone: (928) 340-2713 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Contractor's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail

to the City of Cottonwood Risk Manager. The Contractor's insurance must be primary, and any insurance or self-insurance maintained by the City shall be non-contributory. If any part of this Contract is subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

1. **Commercial General Liability** insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract.
2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Contractor's owned, hired, and non-owned vehicles.
3. **Worker's Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.
4. **Garage Keepers Liability** insurance with a minimum single limit of not less than two hundred fifty thousand dollars (\$250,000) per occurrence.

F. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Contractor, its agents, employees, or any tier of Contractor's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.

G. Applicable Law; Venue. In the performance of this Agreement, the Contractor shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

1. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, the Contractor shall be paid for all undisputed services performed to the termination date.
2. **For Cause.** This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.
3. **Due to Work Stoppage.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

4. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party of the Agreement with respect to the Agreement's subject.
5. **Gratuities.** The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor an amount equal to one hundred fifty percent (150%) of the gratuity.
6. **Fund Appropriation Contingency.** The Contractor understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

1. **Independent Contractor.** The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Contractor meets the requirements of its agreed scope of work as set forth in Section 2 above. The Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
2. **Laws and Regulations.** The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
3. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
4. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
5. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other

provision or application of the Agreement which may remain in effect without the invalid provision or application.

6. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.
7. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
8. **Assignment.** No right or interest in this Agreement shall be assigned by the Contractor without prior, written permission of the City and no delegation of any duty of the Contractor shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Contractor in violation of this provision shall be a breach of this Agreement by the Contractor.
9. **Subcontracts.** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used.
10. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as 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 this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
11. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
12. **Liens.** All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
13. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or

certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Reese's Tire & Automotive Tire Pro's

City of Cottonwood (Owner)

c/o Brad Dixon

c/o Contract/Purchasing Administrator

2435 E State Route 89A

821 N Main Street

Cottonwood, AZ 86326

Cottonwood, AZ 86326

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

- 14. Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Contractor as needed for the performance of duties under this Agreement.
- 15. Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in 9.13. Within ten (10) days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
- 16. Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.
- 17. Compliance with Federal Immigration Laws and Regulations.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and

complies with A.R.S. § 23-214.A. Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

18. **Forced Labor of Ethnic Uyghurs.** In accordance with A.R.S. §35-394. The contractor is not currently and for the duration of the contract will not use the forced labor of ethnic Uyghurs in the People's Republic of China including goods, services, contractors, subcontractors, or suppliers thereof."

Federal Transit Administration Requirements

A portion of the funding for this contract will be from CFDA 20.509 Formula Grants for Non-Urbanized Areas, from the Federal Transit Administration and Arizona department of Transportation.

19. **Charter Bus Requirements.** Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and sub recipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
20. **Energy Conservation.** Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.
21. **Clean Water.** All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
22. **Lobbying.** Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.
23. **Access to Records and Reports.** The following access to records requirements apply to this Contract:

Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49

CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

24. **Federal Changes.** Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.
25. **Clean Air.** Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
26. **Contract Work Hours & Safety Standards Act.** Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any

workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

- 27. No Government Obligation to Third Parties.** The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- 28. Program Fraud and False or Fraudulent Statements or Related Acts.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
- 29. Government Wide Debarment and Suspension (Non Procurement).** The Recipient agrees to

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

- 30. Civil Rights Requirements.** The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service: a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute): (1) FTA’s “Nondiscrimination” statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program, b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued, c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of

1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation, e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20

U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance, h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2, i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited

by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination. k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

- 31. Breaches and Dispute Resolution.** Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 32. Disadvantaged Business Enterprise.** a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Arizona DBE goal is 3.82% race neutral. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere. b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that

work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work. f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

33. **Prompt payment.** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.
34. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.
35. **Drug and Alcohol Abuse and Testing.** The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), " 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.
36. **Other Federal Requirements.** The following requirements are not federal clauses.
37. **Full and Open Competition.** In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.
38. **Prohibition Against Exclusionary or Discriminatory Specifications.** Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.
39. **Conformance with ITS National Architecture.** Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
40. **Access Requirements for Persons with Disabilities.** Contractor shall comply with 49 USC

5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

41. **Notification of Federal Participation.** To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.
42. **Interest of Members or Delegates to Congress.** No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.
43. **Ineligible Contractors and Subcontractors.** Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.
44. **Other Contract Requirements.** To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.
45. **Compliance with Federal Regulations.** Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
46. **Real Property.** Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
47. **Access to Services for Persons with Limited English Proficiency.** To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

48. **Environmental Justice.** Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,
49. **Environmental Protections.** Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.
50. **Geographic Information and Related Spatial Data.** Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.
51. **Geographic Preference.** All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).
52. **Catalog of Federal Domestic Assistance (CFDA) Identification Number.** The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.
53. **CFDA number for the Federal Transportation Administration.** A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
54. **Compliance with Regulations.** The SUBRECIPIENT shall comply with the regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (USDOT), 49 CFR 21 and Executive Order 99-4, as they may be amended from time to time, which is herein incorporated by reference and made a part of the Agreement.
55. **Nondiscrimination.** The SUBRECIPIENT, with regard to the work performed by it during the Agreement will not discriminate on the grounds of race, color, disability, sex, or national origin in the selection and retention of contractors and subcontractors, including procurement of material and leases of equipment. The SUBRECIPIENT will not participate either directly or indirectly in

discrimination prohibited by 49 CFR 21.5, including employment practices when the Agreement covers a program set forth in Appendix A of 49 CFR part 21.

- 56. Solicitations for contractors, including procurement of real property, materials, and equipment.** In all solicitations made by competitive bidding or negotiation by the SUBRECIPIENT for work to be performed under a contract or subcontract, including procurement of real property, materials, and purchase or lease of equipment, each potential contractor, subcontractor, supplier, or lessor shall be notified by the SUBRECIPIENT of the SUBRECIPIENT's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, disability, sex, or national origin. Any contract or agreement established shall contain the language from this Agreement's Appendix A and B, and where appropriate, Appendix C.
- 57. (4) Information and Reports.** The SUBRECIPIENT shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by ADOT, FHWA, and FTA to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of the SUBRECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, the SUBRECIPIENT shall so certify to ADOT, FHWA, and FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 58. (5) Sanctions for Non-Compliance.** In the event of the SUBRECIPIENT's non-compliance with the non-discrimination provisions of this Agreement, ADOT shall impose such sanctions as it, FHWA and FTA determine to be appropriate, including, but not limited to: withholding of payments to the SUBRECIPIENT under the Agreement until the SUBRECIPIENT complies, and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

Contractor

Company Name

Printed Name

Signature

Date of Signing

Title

City of Cottonwood

Tim Elinski, Mayor

Date of Signing

Attest:

Marianne Jiménez, City Clerk

Approved as to form:

Steve Horton, City Attorney

EXHIBIT A

SPECIFICATIONS / SCOPE OF WORK

SPECIFICATIONS

The City of Cottonwood (City) is soliciting firms to provide vehicle fleet maintenance operations **on all or a part** of the City's fleet vehicles. Maintenance will include:

- A. All routine scheduled maintenance per the manufacturers' recommended schedule (See Special Conditions).
- B. All warranty work for vehicles with existing warranty must be completed by the appropriate factory dealer.
- C. All evaluation of newly acquired vehicles and equipment.
- D. All unscheduled repairs.
- E. All requested work (prices to be quoted separately from proposed annual costs).

REQUIREMENTS

- A. All mechanics must be ASE (Automotive Service Excellence) certified and will maintain certification during the contract period. No uncertified mechanics will be allowed without prior written permission from the City. If mechanics are not certified to work on specialized equipment on City vehicles, the City may take vehicles to a mechanic who is certified to perform that specific task, **but only after written documentation from Contractor is obtained stating that the Contractor does not perform that type of work or cannot in a timely manner.**
- B. The Contractor will propose a cost for all work by an hourly rate and an overtime rate.
- C. All parts used in scheduled or unscheduled maintenance will be at a discount from a national chain of original equipment manufacturer (OEM) and/or aftermarket parts provider (i.e., NAPA, AutoZone, CARQUEST, etc.). Provider must state discount percentage with the Request for Proposals (RFP) response.
- D. Turnaround time: Contractor will propose repair/scheduled maintenance times prioritized for public safety vehicles first, all other vehicles and equipment second.
- E. Contractor must be capable of providing basic maintenance for specialized equipment such as construction equipment, electronics for police lights and radios, etc. and/or making recommendations for possible outsourcing of items beyond their capabilities.
- F. All overtime must be authorized by the City in advance of transportation, repair or maintenance. The hourly overtime rate as stated in the proposal shall be used. Other costs of this service will be negotiated with the Contractor.
- G. The City will have full and complete access to monitor and audit operations, bookkeeping, and parts inventories.
- H. Contractor may, at their option, evaluate City vehicles prior to proposal opening. The City will make inspection opportunities available.
- I. Contractor will supply a safe, suitable facility, all fixed equipment (lube racks, etc.) shop supplies and allow safety inspections by the City. **To perform certain maintenance tasks on some Transit Buses and other large heavy diesel vehicles, the Contractor must be able to service vehicles up to 35' in length and 26,000 lbs. GVW.** The City will incur no liability for shop accidents or accidents occurring

during transportation or testing, or any other vehicle/equipment operations. The Contractor must be willing to accept the City's indemnification terms and hold the City harmless from any incidents or accidents arising in shop or testing operations.

- J. Contractor must be bonded and insured and shall remain bonded and insured during the term of the Contract and any and all Contract extensions as per the Information and Instructions to Offerors.
- K. The City, at its discretion, may prioritize the sequence of vehicles scheduled for maintenance or repair. The City will provide prioritization as required.
- L. Contractor must have secure storage space for vehicles awaiting parts or repair.
- M. Contractor must be able to perform scheduled maintenance.
- N. Contractor will dispense fluids and lubricants from fifty-five (55) gallon drums as opposed to quart or gallon containers when the cost of doing so is beneficial to the City.
- O. Contractor must request and receive permission from the City if any City-owned equipment is sent offsite for work that is beyond the capability of the Contractor (i.e., radios, CAD systems, radar and license plate reading equipment, bus ramps, etc.).
- P. If a vehicle or equipment is outsourced for repair or parts, the Contractor will bill the City not more than an agreed upon percentage of markup for parts, labor and shipping/transportation.
- Q. Contractor will provide all tools. If the City owns any equipment-specific tools, they will be made known and available to the Contractor. Depending on the cost to the City, special tools, TMDE (Test, Measurement and Diagnostic Equipment) may be loaned, rented or leased to the Contractor.

SPECIAL CONDITIONS

- A. **Term of Contract:** Term of this Contract will be three (3) years with options to renew for two (2) additional one (1) year periods at the discretion of the City.
- B. **Introduction:** The City of Cottonwood (City) is requesting proposals from experienced and qualified firms for the maintenance of the City's vehicle and equipment fleet. The awarded Contract(s) shall be for a three (3) year period with options to renew for two (2) additional one (1) year periods. **The City desires to obtain multiple providers** for various fleet maintenance services. The contracted provider shall determine if any work is beyond their capability and therefore should be outsourced.
- C. **Description of Government:** The City of Cottonwood is located in the center of the State of Arizona and provides a full spectrum of municipal services including public safety, parks and recreation, streets and highways, public improvements, water, wastewater treatment, storm water utilities, libraries and general administration services. The City is managed under a Mayor and Council form of government consisting of a Mayor, Vice Mayor and five (5) Council Members.
- D. **Format:** The City is interested in a brief, concise proposal not exceeding thirty-five (35) single sided pages and must address the requirements requested by the City. Proposals not conforming to the requirements of this RFP may be disqualified. It is expected that all proposals will fit the proposed format. However, it is expected that some exceptions shall be taken by Contractors. In the case of exceptions, a separate binder must be included with the offer labeled "Exceptions" with only one (1) exception per page listed in the following format:
 - 1. Page number of exception.
 - 2. Section number of exception.

3. Actual language in the request.
4. Language Contractor proposes.
5. Specific language change must be underlined and highlighted.

Example:

Page 14
Section 2.5
Vehicle Preparation
Original language
Proposed language

- E. Vehicle Assessment:** If needed, the Contractor shall conduct an assessment of currently owned vehicles and equipment in order to establish a baseline for vehicle/equipment condition and/or make recommendations to bring vehicles/equipment up to proper working condition. Assessments shall be billed at the contracted hourly rate.

Upon request by the City, the Contractor shall conduct an assessment of newly acquired vehicles and equipment for service. Assessments shall be billed at the contracted hourly rate.

Vehicle assessment shall include (but not be limited to):

- 1) Headlights.
 - a) high beam
 - b) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.
- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) All interior lights.

- 17) Fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Battery, charging system, terminals and cables and battery box.
- 19) Heating and air conditioning systems.
- 20) Frame, cross members and body joints.
- 21) Operation of the engine starting system circuit.
- 22) Drive shaft, U-joints, CV joints and boots.
- 23) Fuel, oil, coolant or other fluid leaks.
- 24) Air and emission filters and valves.
- 25) Hoses, clamps and belts.
- 26) Operation of all gauges.
- 27) All grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Engine oil and filter.
- 29) Tires.
- 30) Body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Air filter.
- 32) Items included in tune up.
- 33) Brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as required.
- 34) Perform road test to detect any deficiencies.

SCOPE OF SERVICES

- A. The Contractor shall provide preventive, maintenance, remedial repairs/overhaul, minor repairs from accidents, misuse, abuse or vandalism, welding, fabrication, and all motor services currently outsourced by the City.

The Contractor shall furnish all required supervision, labor, tools (specialty and hand tools), TMDE, parts, supplies and materials to maintain the fleet in a state of repair and service consistent with generally accepted fleet practice and as defined in this RFP. The successful Contractor shall supply their own equipment (including vehicles), fuel, and maintenance for road services, parts running, etc. Additionally, the Contractor must provide a fully staffed maintenance operation for a minimum of Monday – Friday from 8:00 AM to 5:00 PM each week.

It is understood that not all providers will be able to service the entire City fleet. It is the City's intention to award agreements to multiple shops. Please note in proposals what type/kind of services your firm is able to provide under an agreement resulting from this procurement.

1. Preventive Maintenance

It is the responsibility of the Contractor to implement a preventive maintenance (PM) program to service City vehicles. Preventive maintenance shall be defined as scheduled routine inspection, servicing, repair and replacement of equipment components on a regular basis to facilitate

operations with a minimum of downtime. The PM program shall be presented in detail in the proposal and shall be designed in accordance with recognized good fleet management practice and meet or exceed the terms and conditions required to comply with the OEM specifications. The proposed PM shall at a minimum, include the specifications outlined herein but is subject to modification upon mutual agreement of the city and the awarded Contractor. It is therefore critical that each proposal be submitted exactly as explained below. All management functions of the fleet shall remain with the City unless exceptions are noted below. Non-conforming proposals may be eliminated.

2. Preventive Maintenance Program

Preventive maintenance shall be performed on City vehicles and equipment.

3. Preventive Maintenance Scheduling

Preventive maintenance shall be scheduled on a usage basis with calendar time override. That is, each Contract vehicle and piece of equipment shall be scheduled for preventive maintenance based on a usage limitation (miles or hours) or time since the last PM, whichever comes first. (CAT/LYNX buses have their own PM Schedules based on miles and compliant with ADOT/FTA/DOT regulations). The Contractor shall complete and file an “inspection form” approved by the City for each PM performed on each vehicle and piece of equipment.

It shall be the City responsibility to develop and implement a PM scheduling system that provides immediate notification to the City’s operating departments when PMs are scheduled for vehicles and equipment. This schedule shall provide for three (3) days advance notice of scheduled service. The Contractor’s Site Manager shall work with the City Contract Manager to schedule actual dates of service.

4. Preventive Maintenance Performance

The timely performance of preventive maintenance is the responsibility of the Contractor for all vehicles and equipment. The only authorized exception to this section shall be when a vehicle or piece of equipment fails to be presented by the operating department. In such an instance, written notification shall be provided to the City detailing dates, times, department, vehicle number, and name of the department manager notified so that the City may address the problem.

5. Preventive Maintenance Intervals

Preventive maintenance services and service intervals shall meet all specifications listed in Section 10 or exceed OEM recommendations for such service. The program is subject to modification upon mutual agreement of the City and the awarded Contractor.

6. Preventive Maintenance Scheduling for New Equipment

As part of placing in service newly acquired vehicles and equipment, the Contractor’s Site Manager and the City shall jointly review and establish the proposed PM schedule to be specifically followed for that vehicle or piece of equipment.

7. Preventive Maintenance Oil Analysis Program

Upon the City’s request, the Contractor shall provide an oil sampling program for use as a diagnostic aid in determining service levels, repairs and intervals along with adjusting vehicle replacement schedules. The oil sampling program shall include but not be limited to the following:

- a. All diesel and auxiliary engines.

- b. Hydraulic systems for personnel aerial lift devices, boom trucks, ladder trucks, etc., exclusive of hydraulic brake systems.
- c. All construction equipment so designated by the City and agreed to by the Contractor, which may or may not fall into the range of equipment designated above.

Any requested oil sampling services shall be billed at the contracted hourly rate.

8. Preventive Maintenance Coolant Analysis Program

Upon the City's request, the Contractor shall provide a coolant sampling program for use as a diagnostic aid in determining coolant/filter change intervals along with detection of engine cooling problems. This program is to include all liquid cooled engines.

Any requested coolant system analysis services shall be billed at the contracted hourly rate.

9. Personal Lift Device Inspection and Certification

The Contractor shall develop and implement an annual program for the inspection and certification of all City owned personal lift devices in accordance with state, Federal or local standards. The inspections shall be completed by a certified inspector hired by the Contractor once per year. Each fifth year the vehicle shall be transported to the manufacturer's distributor or City approved vendor for its five (5) year inspection and rebuild as required. A written report of findings, corrective actions taken and certification shall be provided to the City, Risk Manager and operating department. Additionally, a copy shall be included in the individual equipment vehicle files maintained by the Contractor for the City. The Contractor shall be responsible for the certification and cost of the certification including mandatory rebuilds of these devices included in the contract cost.

10. Preventive Maintenance (PM) Schedule

Preventive Maintenance (PM) shall be performed according to manufacturer's requirements. The items listed below shall also be performed at each PM.

Safety checklist: The following items must be inspected at every PM:

- 1) Headlights.
 - c) high beam
 - d) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.

- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) Inspect all interior lights.
- 17) Inspect fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Inspect battery, charging system, terminals and cables and battery box.
- 19) Inspect heating and air conditioning systems.
- 20) Inspect frame, cross members and body joints.
- 21) Inspect operation of the engine starting system circuit.
- 22) Inspect drive shaft, U-joints, CV joints and boots.
- 23) Inspect any fuel, oil, coolant or other fluid leaks.
- 24) Inspect air and emission filters and valves as needed.
- 25) Inspect hoses, clamps and belts.
- 26) Inspect operation of all gauges.
- 27) Inspect all grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Inspect engine oil and filter.
- 29) Inspect tires as required.
- 30) Inspect vehicle for body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Inspect air filter as necessary. Must be completed at a minimum of twelve (12) months or 12,000 miles whichever occurs first.
- 32) Inspect brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as needed to ensure proper functioning. **NOTE:** Every brake job shall include a new brake hardware kit including springs, hold downs, rollers, etc.
- 33) Perform road test and correct any deficiencies.

a. Tractors / Heavy Equipment / Diesel / Specialty Equipment

Tractors (farm type), fire trucks, diesel powered equipment, and other heavy/specialized equipment **may be excluded from this agreement as determined by the City.**

b. Trailers

Light Duty Trailers (up to one ton) - conduct a semi-annual safety inspection, complete lubrication, repack wheel bearings and repair as required.

Heavy Duty Trailers (exceeding one ton) - provide quarterly safety inspections and complete repair and lubrication including operation of any attachments such as winches, ramps, gates, etc., in accordance with Federal Motor Carrier regulations.

c. Ancillary Services

1) Quick Fix

The Contractor will provide a quick fix solution for repairs of less than one (1) hour duration. This service shall be offered at all times during normal hours of business operation as part of the Contract cost. Typical quick fix repairs may include but are not limited to lights, wiper blades, battery replacements, etc.

2) Parts

The Contractor shall be responsible for purchasing and maintaining the entire parts and supplies inventory for all commonly used parts, lubricants, tools and operating supplies (hereafter “parts”) that are required for preventive maintenance services. All parts shall meet or exceed OEM specifications. The Contractor shall manage the inventory consistent with good inventory management practices.

The Contractor shall set inventory levels in a realistic manner to support the number and type of vehicles operated by the City. The City shall have oversight of inventories and may adjust quantities up or down. The City reserves the right to reject parts not meeting OEM specifications.

If the Contract is severed prior to the end of the Contract period, the City will purchase the remaining inventory from the Contractor at the actual cost paid. Therefore, it is imperative that the Contractor maintain an accurate accounting of inventory value at all times during the term of the Contract.

3) Training

The Contractor shall provide continuous training for his/her employee. The City shall be made aware of all training. Systems included on CATS/LYNX Buses should be considered in regards to contractor’s employee training.

4) Re-Repair

Re-repair is the repair of the same failure within the warranty period due to parts failure, mis-diagnosis or mechanic error. The Contractor shall track and identify re-repair work and shall not include the cost of re-repairs, parts, labor or supplies in the monthly statement.

1) Misuse, Abuse or Negligence of Equipment

The City wishes to have any knowledge of equipment misuse, abuse or negligence by its employees. The Contractor shall be required to submit suspected reports of misuse, abuse or neglect to the City in any case where evidence provides reasonable cause to suspect misuse, abuse or negligence. The Contractor will inform the City via email or telephone immediately, followed by a written report.

2) Welding and Fabrication

Welding and fabrication are integral parts of fleet maintenance operations and all costs including welding rod, wire, supplies, protective clothing and equipment and all materials (steel aluminum, etc.) are the responsibility of the Contractor. All welding and fabrication requirements as part of repairs shall be performed at all times during the term of the Contract period.

Welding and fabrication required as part of repairs shall be billed at the contracted hourly rate.

3) Fleet Management Information System

The Contractor shall own and provide the Fleet Management System. It will be operated by the Contractor and 100% access to the City's records shall be available to the City with unrestricted access at all times via the internet.

4) Fleet Management Reporting Requirements

The Contractor shall provide the City or designee access at all times to electronic data, books, records, correspondence, instructions, plans, drawings, receipts, invoices, vouchers and memoranda of every description, pertaining to the work under the Contract for the purposes of audit and verification of work performed.

The information system shall provide records on all repairs and services performed for each vehicle and piece of equipment. Under no circumstances shall the originally assigned City equipment number be changed or altered and all record entries shall utilize the original vehicle/equipment number. All previous history with the vehicles and equipment shall remain intact with the originally assigned City equipment number. The Contractor shall enter daily, all repair work order data including labor, contracted services, parts transactions, fuel charges and other data deemed necessary by the City. The Contractor shall provide work orders, PM inspection reports and other special forms necessary for meeting the requirements of this Contract.

At the termination of the contract, the Contractor shall provide a digital record of all vehicles detailing the services provided for each vehicle. This record must be in a format that can be utilized by the City and/or another maintenance provider.

5) Files

The Contractor shall maintain a complete file of service manuals, service bulletins, lubrication charts and other information necessary to properly service all City vehicles and equipment. A computer database is sufficient to meet this requirement.

A history shall be maintained by the Contractor for each City vehicle and piece of equipment. This folder shall contain, in chronological order, all work orders generated specific to the vehicle or equipment, correspondence of any nature pertaining to the vehicle or equipment such as manufacturer's recall orders or service bulletins and memoranda pertaining to service and repairs. Additionally, all vehicle and equipment folders shall contain information such as make, year, model, vehicle identification number (VIN) and a spare set of keys where applicable.

6) Outside Repairs

The Contractor shall be responsible for arranging and managing the conduct of outside repairs which cannot be economically performed in house and shall be responsible for continuing review of the need for specific outside repairs as opposed to performing such work in house. These outside repairs may include transmission overhaul and repair, radiator repair, engine overhaul and repair, hydraulic system

repair or overhaul, major equipment overhaul or repair and other such works orders done to minimize the City's down time. Outside repairs shall be discussed with the City to ensure the outside versus inside repair decision remains justified. All responsibility, paperwork, invoicing, quality control, vehicle movement to and from outside repair facilities, costs, vehicle security, etc., shall be the responsibility of the Contractor and part of the Contract cost.

7) Subcontracting

The Contractor may subcontract services with prior approval of the City. No such approval shall be construed as making the City a party of or to such subcontract or subject the City to liability of any kind to the subcontractor. No subcontract of any kind shall under any circumstance, relieve the Contractor of its liability and obligation under the Contract and despite any subcontract, the City shall deal through the Contractor and subcontractors shall be dealt with as workmen and representatives of the Contractor.

The City reserves the right to request more than one (1) proposal for any subcontract work and shall have the right to approve or disapprove the subcontractor. The Contractor's plan for subcontract repair shall be stated in the proposal. All subcontract repair costs shall be the Contractor's responsibility and included in the Contract cost.

Directed items for repair not covered in this Contract but deemed necessary by the City to keep the fleet in a well maintained condition shall also be included in the Contract cost.

Directed repairs for items not covered in this Contract which are not considered to be necessary for proper fleet maintenance shall not be included in the Contract cost but shall be invoiced time plus actual parts and materials cost. The time charge for such repairs shall not exceed that published in the MITCHELL flat rate table, latest edition if work is automotive related. All welding and fabrication functions as described above are included in the Contract cost and therefore not subject directed repair costs.

8) Emergency Conditions

The Contractor shall mobilize the shop and provide repair and maintenance services for the duration of emergency situations such as flood, hurricane, snow storm, earthquake, fire, tornado, etc. and other emergencies declared by the Mayor. Such service shall include adequate staffing to ensure continuous twenty-four (24) hour support for the emergency period or required by the Mayor or designee. Such circumstances may occur outside normal hours of business operation and can involve any number of employees or equipment. Costs incurred for operations outside of normal duty hours shall be billed at a rate of no more than the agreed hourly or overtime labor costs plus cost of parts and materials. Services provided outside the scope of work of the Contract shall be billed separately. Staffing levels during emergencies shall be approved by the City.

Repair priorities in emergency situations may be revised by the Mayor or designee.

9) Facilities

A facility to be owned or leased and operated by the Contractor shall be included in the Contract cost and subject to approval by the City prior to the start of the Contract. All costs for necessary operational requirements such as water, electricity, HVAC, telephone, gas, propane, garbage and hazardous waste disposal, recycling of batteries, coolant, Freon, oil and fluids, etc., shall be borne by the Contractor and included in

the proposed Contract price. This shall include any maintenance costs to the structure or systems such as plumbing, HVAC, electrical, etc. These costs shall be included in the proposed Contract price.

10) Permits, Licenses and Fees

All permits, licenses and fees required for the Contractor to conduct all requirements of this Contract shall be the responsibility of the Contractor. Any non-compliance items discovered by OSHA, Department of Environmental Protection (DEP), American National Standards Institute (ANSI), etc. shall be the responsibility of the Contractor and must be corrected, repaired, or replaced as required and brought into conformance without undue delay. All costs for compliance fines levied shall be the responsibility of the Contractor.

11) Tools and Equipment

The Contractor must provide all equipment, tools, hoist, lifts, drains, and office furniture except that used by the City. The Contractor may provide or purchase other equipment with his/her own funds and shall be wholly owned by the Contractor. Installation of such equipment is subject to approval by the City.

12) Quality Assurance Program

The Contractor shall provide the City a Quality Assurance Program for the maintenance of City vehicles and equipment.

Performance standards shall include, as a minimum, as follows:

- a) Fleet availability.
- b) Manufacturer's warranties.
- c) PM Performance.
- d) Repair performance.
- e) Parts availability.

13) Repair Priority

The Contractor shall provide preventive maintenance, scheduled and unscheduled repairs to vehicles in a priority set by the City.

14) Hours of Operation

The Contractor's shop shall be open, a minimum of, Monday through Friday from 8:00 AM to 5:00 PM. The Contractor may vary operating hours only upon approval of the City. Vehicles and equipment will be accepted for PM's or repair during these hours. The Contractor may, at their option, work on City vehicles and equipment on scheduled City holidays but will not be required to accept vehicles and equipment for PM or repair during holidays. Contractor must be available or arrangements shall be made for weekend and holiday drop-offs (primarily for Public Safety and Transit). City holidays observed are as follows:

- New Year's Day
- Martin Luther King, Jr./Civil Rights Day

- President's Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- The Day After Thanksgiving
- Christmas Day

15) Investigation

The Contractor shall support the City with technical investigations related to the fleet. Such investigations may include accidents, abuse, or other issues of a technical nature.

16) Inspection of Work

The Contractor shall furnish the City or designated representative every reasonable opportunity for inspection to determine if work is being performed per the terms of this Contract. The City shall provide a twenty-four (24) hour notice of such inspection.

17) Auditing of Contractor

The City or designee shall have access to all of the Contractor's personnel books, records, invoices, correspondence, instructions, plans, drawings, invoices, receipts, vouches and memoranda of every description pertaining to work performed under this Contract for the purpose of verifying actual work performed. The Contractor shall make all efforts to accommodate such requests for audit by the City at any reasonable time.

18) Reserved

19) Waste

The Contractor shall be responsible for disposing of all trash, oil, oil filters, fluids, batteries, parts and all other waste generated in the repair/service requirements of this Contract. Price shall be included in the Contract cost. All such disposal must be in accordance with current city, county, state and Federal regulations and laws. The Contractor shall be responsible for training employees regarding working with hazardous materials. Additionally, the Contractor shall comply with all Federal "Right to Know" regulations and legislation. The Contractor shall hold the City harmless for any and all actions of the Contractor regarding storing, handling and disposal of waste.

20) City's Responsibilities

- a) Communicate regularly with the Contractor to resolve questions and issues on a daily basis.

- b)** Make all data available to the Contractor, which in the opinion of the City, is necessary to for the Contractor to provide quality service under the terms of this Contract.
- c)** Insure the Contractor has access to repair or maintain all vehicles and equipment under the terms of this Contract.
- d)** Provide purchasing support for any directed repairs as required.
- e)** Pay for all fuel for all vehicles and equipment except that owned and operated by the Contractor.

EXHIBIT B
OFFER SECTION

A. OFFEROR

Firm Name: Reese's Tire + Automotive Tire Pros

Contact Name: Brad Dixon

Principal Address: 2435 E State Route 89A
Cottonwood, AZ 86326

Local Address: N/A

Phone: 928-634-5243 Fax: 928-634-9703

E-Mail: bdixonrta@gmail.com

Type of Organization: S-Corp Tax ID #: 86-0693264

License #: 13026905 City of Cottonwood Business Registration #: 22-0991

B. Exceptions to RFP: None
(See Information & Instructions §4.5.4 Exceptions to Solicitation and Section 1, paragraph 2 of the RFP)

C. Disclosure of Debarment information: None
(See Information & Instructions §4.5.5 Disclosure)

D. Disclosure of Related Party Transactions: See attached Price Matrix
(See Information & Instructions §4.5.6 Related Party Transactions)

E. COST: Offeror will state a cost for:

a. Hourly rate for repairs. \$ 85.00

b. Hourly cost of overtime repairs. \$ 150.00

F. Offeror certifies that they ☒ are or ☐ are not able to provide vehicle maintenance services for the entire fleet for the City of Cottonwood.

G. Offer certifies that they ☒ do or ☐ do not have a computerized records management system accessible by the City that contains the vehicle maintenance data. If Offer does have a computerized records management system, is the system capable of importing and exporting vehicle maintenance files? ☒ Yes ☐ No

H. PRICE MATRIX: Offeror will provide the price matrix for percentage markup on parts and supplies for City repairs and maintenance.

I. LIST OF MAJOR SUPPLIERS: American Tire, Dealers Tire, NTW, Tire Hub,
Omnisource, Napa Auto Parts, O'Reilly, Autozone, Bennett Oil, BG,
Susper Engines + Trans., Larry H. Miller Group, LKQ, Creative Bus, AEP

- J. **APPROACH TO PROPOSAL:** Offeror will describe their approach to the City's need for a fleet vehicle maintenance solution (attach as separate documents as needed). Please include what services are included/excluded from your proposal (examples may be: tires only, heavy diesel only, excludes heavy diesel, etc.)

See attachment #1

TURNAROUND TIME: Offer will provide a turnaround time for all public safety vehicles of ^{see attachment #1} 1 days/hours.

- K. **REFERENCES** (Must be provided):

Provide names, addresses and telephone numbers of a minimum of three (3) references (public or private sector) to which you have provided similar goods or equipment. An additional sheet may be attached if needed.

1. Entity: Graham's Integrity Auto Sales
Address: 777 AZ-89A Cottonwood, AZ 86326
Contact: Graham Robertson
Phone: 928-202-3440
Goods or Services supplied and when provided: Full Automotive Repair, Tire's, wheels, accessories. Serviced daily.
Duration of Contract: 10 years
2. Entity: Blind Brothers
Address: Park Main Plaza, 437 S. Main Street, Cottonwood, AZ 86326
Contact: Jeremy Helting
Phone: 928-634-2423
Goods or Services supplied and when provided: Full Automotive repair, tires, wheels, and accessories. Weekly.
Duration of Contract: 15 years
3. Entity: Advanced Septic & Plumbing
Address: Box 1032, cottonwood, AZ 86326
Contact: Larry Nevitt
Phone: 928-821-5114
Goods or Services supplied and when provided: Full automotive repair, tires, wheels, and accessories. weekly.

Duration of Contract: 10 years

- L. **FACILITY INFORMATION:** Offeror will state the location of their proposed facility, its principal maintenance and safety features (number of bays, lube racks, lifts, special equipment, etc.)

Facility Location: 2435 E. State Route 89A Cottonwood, AZ 86326

Principal Maintenance and Safety Features (attach as separate document if needed): _____

See attachment #1

M. **RECEIPT OF ADDENDA:**

Offeror acknowledges receipt of the following Solicitation Addendum(s):

Addendum No.

Date

By signing below, the Undersigned certifies that the statements provided herein are accurate and certifies the intent to be bound by such statements.

Name of Contractor: Reese's Tire & Auto Tire Pros - Brad Dixon

Signature: Bradley Dixon

By: Bradley Dixon

Title: Vice President

Business Address: 2435 E State Route 89A

Cottonwood, AZ 86326

Telephone: 928-654-5243

Email Address: bdixonrta@gmail.com

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this 6th day of December, 2022, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and Big O Tires (the "Contractor").

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Contractor hereby agree as follows:

- A. Term of Agreement.** The initial term of this agreement shall be three (3) years following approval by the City Council. The City of Cottonwood may extend this contract for up to two (2) additional one (1) year periods at the sole discretion of the Cottonwood City Council.
- B. Scope of Services.** The Contractor shall provide the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein.
- C. Compensation.** The City shall pay the Contractor for the Services as set forth in the attached Specifications/Scope of Work, which is marked as Exhibit A and incorporated by reference herein, at the rates as set forth in the Offer Section, marked as Exhibit B and incorporated by reference herein.
- D. Payments.** The City shall pay the Contractor subject to the Contractor submitting monthly invoices to the City for each requested payment. Invoices shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- E. Insurance.** The Contractor shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Contractor shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood
Risk Manager
821 N Main Street
Cottonwood, AZ 86326
Telephone: (928) 340-2713 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Contractor's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail

to the City of Cottonwood Risk Manager. The Contractor's insurance must be primary, and any insurance or self-insurance maintained by the City shall be non-contributory. If any part of this Contract is subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

1. **Commercial General Liability** insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract.
2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Contractor's owned, hired, and non-owned vehicles.
3. **Worker's Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.
4. **Garage Keepers Liability** insurance with a minimum single limit of not less than two hundred fifty thousand dollars (\$250,000) per occurrence.

F. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Contractor, its agents, employees, or any tier of Contractor's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.

G. Applicable Law; Venue. In the performance of this Agreement, the Contractor shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

1. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, the Contractor shall be paid for all undisputed services performed to the termination date.
2. **For Cause.** This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.
3. **Due to Work Stoppage.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

4. **Conflict of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party of the Agreement with respect to the Agreement's subject.
5. **Gratuities.** The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor an amount equal to one hundred fifty percent (150%) of the gratuity.
6. **Fund Appropriation Contingency.** The Contractor understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

1. **Independent Contractor.** The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Contractor meets the requirements of its agreed scope of work as set forth in Section 2 above. The Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
2. **Laws and Regulations.** The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
3. **Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
4. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
5. **Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other

provision or application of the Agreement which may remain in effect without the invalid provision or application.

6. **Relationship of the Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.
7. **Entire Agreement; Interpretation; Parol Evidence.** This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
8. **Assignment.** No right or interest in this Agreement shall be assigned by the Contractor without prior, written permission of the City and no delegation of any duty of the Contractor shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Contractor in violation of this provision shall be a breach of this Agreement by the Contractor.
9. **Subcontracts.** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used.
10. **Rights and Remedies.** No provision in this Agreement shall be construed, expressly or by implication, as 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 this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
11. **Attorneys' Fees.** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
12. **Liens.** All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
13. **Notices and Requests.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or

certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Contractor: Big O Tires

City of Cottonwood (Owner)

c/o Chris Ogden

c/o Contract/Purchasing Administrator

1208 State Route 260

821 N Main Street

Cottonwood, AZ 86326

Cottonwood, AZ 86326

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

- 14. Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Contractor as needed for the performance of duties under this Agreement.
- 15. Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in 9.13. Within ten (10) days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
- 16. Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.
- 17. Compliance with Federal Immigration Laws and Regulations.** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and

complies with A.R.S. § 23-214.A. Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

18. **Forced Labor of Ethnic Uyghurs.** In accordance with A.R.S. §35-394. The contractor is not currently and for the duration of the contract will not use the forced labor of ethnic Uyghurs in the People's Republic of China including goods, services, contractors, subcontractors, or suppliers thereof."

Federal Transit Administration Requirements

A portion of the funding for this contract will be from CFDA 20.509 Formula Grants for Non-Urbanized Areas, from the Federal Transit Administration and Arizona department of Transportation.

19. **Charter Bus Requirements.** Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and sub recipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
20. **Energy Conservation.** Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.
21. **Clean Water.** All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
22. **Lobbying.** Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.
23. **Access to Records and Reports.** The following access to records requirements apply to this Contract:

Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49

CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

24. **Federal Changes.** Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.
25. **Clean Air.** Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.
26. **Contract Work Hours & Safety Standards Act.** Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any

workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

- 27. No Government Obligation to Third Parties.** The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- 28. Program Fraud and False or Fraudulent Statements or Related Acts.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
- 29. Government Wide Debarment and Suspension (Non Procurement).** The Recipient agrees to

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

- 30. Civil Rights Requirements.** The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service: a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute): (1) FTA’s “Nondiscrimination” statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program, b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued, c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of

1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation, e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20

U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance, h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2, i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited

by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination. k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

- 31. Breaches and Dispute Resolution.** Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 32. Disadvantaged Business Enterprise.** a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Arizona DBE goal is 3.82% race neutral. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere. b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that

work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work. f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

33. **Prompt payment.** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.
34. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.
35. **Drug and Alcohol Abuse and Testing.** The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), " 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.
36. **Other Federal Requirements.** The following requirements are not federal clauses.
37. **Full and Open Competition.** In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.
38. **Prohibition Against Exclusionary or Discriminatory Specifications.** Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.
39. **Conformance with ITS National Architecture.** Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
40. **Access Requirements for Persons with Disabilities.** Contractor shall comply with 49 USC

5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

- 41. Notification of Federal Participation.** To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.
- 42. Interest of Members or Delegates to Congress.** No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.
- 43. Ineligible Contractors and Subcontractors.** Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.
- 44. Other Contract Requirements.** To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.
- 45. Compliance with Federal Regulations.** Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
- 46. Real Property.** Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
- 47. Access to Services for Persons with Limited English Proficiency.** To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

48. **Environmental Justice.** Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,
49. **Environmental Protections.** Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.
50. **Geographic Information and Related Spatial Data.** Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.
51. **Geographic Preference.** All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).
52. **Catalog of Federal Domestic Assistance (CFDA) Identification Number.** The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.
53. **CFDA number for the Federal Transportation Administration.** A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
54. **Compliance with Regulations.** The SUBRECIPIENT shall comply with the regulations relative to non-discrimination in federally assisted programs of the U.S. Department of Transportation (USDOT), 49 CFR 21 and Executive Order 99-4, as they may be amended from time to time, which is herein incorporated by reference and made a part of the Agreement.
55. **Nondiscrimination.** The SUBRECIPIENT, with regard to the work performed by it during the Agreement will not discriminate on the grounds of race, color, disability, sex, or national origin in the selection and retention of contractors and subcontractors, including procurement of material and leases of equipment. The SUBRECIPIENT will not participate either directly or indirectly in

discrimination prohibited by 49 CFR 21.5, including employment practices when the Agreement covers a program set forth in Appendix A of 49 CFR part 21.

- 56. Solicitations for contractors, including procurement of real property, materials, and equipment.** In all solicitations made by competitive bidding or negotiation by the SUBRECIPIENT for work to be performed under a contract or subcontract, including procurement of real property, materials, and purchase or lease of equipment, each potential contractor, subcontractor, supplier, or lessor shall be notified by the SUBRECIPIENT of the SUBRECIPIENT's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, disability, sex, or national origin. Any contract or agreement established shall contain the language from this Agreement's Appendix A and B, and where appropriate, Appendix C.
- 57. (4) Information and Reports.** The SUBRECIPIENT shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by ADOT, FHWA, and FTA to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of the SUBRECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, the SUBRECIPIENT shall so certify to ADOT, FHWA, and FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 58. (5) Sanctions for Non-Compliance.** In the event of the SUBRECIPIENT's non-compliance with the non-discrimination provisions of this Agreement, ADOT shall impose such sanctions as it, FHWA and FTA determine to be appropriate, including, but not limited to: withholding of payments to the SUBRECIPIENT under the Agreement until the SUBRECIPIENT complies, and/or cancellation, termination, or suspension of the Agreement, in whole or in part.

Contractor

Company Name

Printed Name

Signature

Date of Signing

Title

City of Cottonwood

Tim Elinski, Mayor

Date of Signing

Attest:

Marianne Jiménez, City Clerk

Approved as to form:

Steve Horton, City Attorney

EXHIBIT A

SPECIFICATIONS / SCOPE OF WORK

SPECIFICATIONS

The City of Cottonwood (City) is soliciting firms to provide vehicle fleet maintenance operations **on all or a part** of the City's fleet vehicles. Maintenance will include:

- A. All routine scheduled maintenance per the manufacturers' recommended schedule (See Special Conditions).
- B. All warranty work for vehicles with existing warranty must be completed by the appropriate factory dealer.
- C. All evaluation of newly acquired vehicles and equipment.
- D. All unscheduled repairs.
- E. All requested work (prices to be quoted separately from proposed annual costs).

REQUIREMENTS

- A. All mechanics must be ASE (Automotive Service Excellence) certified and will maintain certification during the contract period. No uncertified mechanics will be allowed without prior written permission from the City. If mechanics are not certified to work on specialized equipment on City vehicles, the City may take vehicles to a mechanic who is certified to perform that specific task, **but only after written documentation from Contractor is obtained stating that the Contractor does not perform that type of work or cannot in a timely manner.**
- B. The Contractor will propose a cost for all work by an hourly rate and an overtime rate.
- C. All parts used in scheduled or unscheduled maintenance will be at a discount from a national chain of original equipment manufacturer (OEM) and/or aftermarket parts provider (i.e., NAPA, AutoZone, CARQUEST, etc.). Provider must state discount percentage with the Request for Proposals (RFP) response.
- D. Turnaround time: Contractor will propose repair/scheduled maintenance times prioritized for public safety vehicles first, all other vehicles and equipment second.
- E. Contractor must be capable of providing basic maintenance for specialized equipment such as construction equipment, electronics for police lights and radios, etc. and/or making recommendations for possible outsourcing of items beyond their capabilities.
- F. All overtime must be authorized by the City in advance of transportation, repair or maintenance. The hourly overtime rate as stated in the proposal shall be used. Other costs of this service will be negotiated with the Contractor.
- G. The City will have full and complete access to monitor and audit operations, bookkeeping, and parts inventories.
- H. Contractor may, at their option, evaluate City vehicles prior to proposal opening. The City will make inspection opportunities available.
- I. Contractor will supply a safe, suitable facility, all fixed equipment (lube racks, etc.) shop supplies and allow safety inspections by the City. **To perform certain maintenance tasks on some Transit Buses and other large heavy diesel vehicles, the Contractor must be able to service vehicles up to 35' in length and 26,000 lbs. GVW.** The City will incur no liability for shop accidents or accidents occurring

during transportation or testing, or any other vehicle/equipment operations. The Contractor must be willing to accept the City's indemnification terms and hold the City harmless from any incidents or accidents arising in shop or testing operations.

- J. Contractor must be bonded and insured and shall remain bonded and insured during the term of the Contract and any and all Contract extensions as per the Information and Instructions to Offerors.
- K. The City, at its discretion, may prioritize the sequence of vehicles scheduled for maintenance or repair. The City will provide prioritization as required.
- L. Contractor must have secure storage space for vehicles awaiting parts or repair.
- M. Contractor must be able to perform scheduled maintenance.
- N. Contractor will dispense fluids and lubricants from fifty-five (55) gallon drums as opposed to quart or gallon containers when the cost of doing so is beneficial to the City.
- O. Contractor must request and receive permission from the City if any City-owned equipment is sent offsite for work that is beyond the capability of the Contractor (i.e., radios, CAD systems, radar and license plate reading equipment, bus ramps, etc.).
- P. If a vehicle or equipment is outsourced for repair or parts, the Contractor will bill the City not more than an agreed upon percentage of markup for parts, labor and shipping/transportation.
- Q. Contractor will provide all tools. If the City owns any equipment-specific tools, they will be made known and available to the Contractor. Depending on the cost to the City, special tools, TMDE (Test, Measurement and Diagnostic Equipment) may be loaned, rented or leased to the Contractor.

SPECIAL CONDITIONS

- A. **Term of Contract:** Term of this Contract will be three (3) years with options to renew for two (2) additional one (1) year periods at the discretion of the City.
- B. **Introduction:** The City of Cottonwood (City) is requesting proposals from experienced and qualified firms for the maintenance of the City's vehicle and equipment fleet. The awarded Contract(s) shall be for a three (3) year period with options to renew for two (2) additional one (1) year periods. **The City desires to obtain multiple providers** for various fleet maintenance services. The contracted provider shall determine if any work is beyond their capability and therefore should be outsourced.
- C. **Description of Government:** The City of Cottonwood is located in the center of the State of Arizona and provides a full spectrum of municipal services including public safety, parks and recreation, streets and highways, public improvements, water, wastewater treatment, storm water utilities, libraries and general administration services. The City is managed under a Mayor and Council form of government consisting of a Mayor, Vice Mayor and five (5) Council Members.
- D. **Format:** The City is interested in a brief, concise proposal not exceeding thirty-five (35) single sided pages and must address the requirements requested by the City. Proposals not conforming to the requirements of this RFP may be disqualified. It is expected that all proposals will fit the proposed format. However, it is expected that some exceptions shall be taken by Contractors. In the case of exceptions, a separate binder must be included with the offer labeled "Exceptions" with only one (1) exception per page listed in the following format:
 - 1. Page number of exception.
 - 2. Section number of exception.

3. Actual language in the request.
4. Language Contractor proposes.
5. Specific language change must be underlined and highlighted.

Example:

Page 14
Section 2.5
Vehicle Preparation
Original language
Proposed language

- E. Vehicle Assessment:** If needed, the Contractor shall conduct an assessment of currently owned vehicles and equipment in order to establish a baseline for vehicle/equipment condition and/or make recommendations to bring vehicles/equipment up to proper working condition. Assessments shall be billed at the contracted hourly rate.

Upon request by the City, the Contractor shall conduct an assessment of newly acquired vehicles and equipment for service. Assessments shall be billed at the contracted hourly rate.

Vehicle assessment shall include (but not be limited to):

- 1) Headlights.
 - a) high beam
 - b) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.
- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) All interior lights.

- 17) Fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Battery, charging system, terminals and cables and battery box.
- 19) Heating and air conditioning systems.
- 20) Frame, cross members and body joints.
- 21) Operation of the engine starting system circuit.
- 22) Drive shaft, U-joints, CV joints and boots.
- 23) Fuel, oil, coolant or other fluid leaks.
- 24) Air and emission filters and valves.
- 25) Hoses, clamps and belts.
- 26) Operation of all gauges.
- 27) All grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Engine oil and filter.
- 29) Tires.
- 30) Body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Air filter.
- 32) Items included in tune up.
- 33) Brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as required.
- 34) Perform road test to detect any deficiencies.

SCOPE OF SERVICES

- A. The Contractor shall provide preventive, maintenance, remedial repairs/overhaul, minor repairs from accidents, misuse, abuse or vandalism, welding, fabrication, and all motor services currently outsourced by the City.

The Contractor shall furnish all required supervision, labor, tools (specialty and hand tools), TMDE, parts, supplies and materials to maintain the fleet in a state of repair and service consistent with generally accepted fleet practice and as defined in this RFP. The successful Contractor shall supply their own equipment (including vehicles), fuel, and maintenance for road services, parts running, etc. Additionally, the Contractor must provide a fully staffed maintenance operation for a minimum of Monday – Friday from 8:00 AM to 5:00 PM each week.

It is understood that not all providers will be able to service the entire City fleet. It is the City's intention to award agreements to multiple shops. Please note in proposals what type/kind of services your firm is able to provide under an agreement resulting from this procurement.

1. Preventive Maintenance

It is the responsibility of the Contractor to implement a preventive maintenance (PM) program to service City vehicles. Preventive maintenance shall be defined as scheduled routine inspection, servicing, repair and replacement of equipment components on a regular basis to facilitate

operations with a minimum of downtime. The PM program shall be presented in detail in the proposal and shall be designed in accordance with recognized good fleet management practice and meet or exceed the terms and conditions required to comply with the OEM specifications. The proposed PM shall at a minimum, include the specifications outlined herein but is subject to modification upon mutual agreement of the city and the awarded Contractor. It is therefore critical that each proposal be submitted exactly as explained below. All management functions of the fleet shall remain with the City unless exceptions are noted below. Non-conforming proposals may be eliminated.

2. Preventive Maintenance Program

Preventive maintenance shall be performed on City vehicles and equipment.

3. Preventive Maintenance Scheduling

Preventive maintenance shall be scheduled on a usage basis with calendar time override. That is, each Contract vehicle and piece of equipment shall be scheduled for preventive maintenance based on a usage limitation (miles or hours) or time since the last PM, whichever comes first. (CAT/LYNX buses have their own PM Schedules based on miles and compliant with ADOT/FTA/DOT regulations). The Contractor shall complete and file an “inspection form” approved by the City for each PM performed on each vehicle and piece of equipment.

It shall be the City responsibility to develop and implement a PM scheduling system that provides immediate notification to the City’s operating departments when PMs are scheduled for vehicles and equipment. This schedule shall provide for three (3) days advance notice of scheduled service. The Contractor’s Site Manager shall work with the City Contract Manager to schedule actual dates of service.

4. Preventive Maintenance Performance

The timely performance of preventive maintenance is the responsibility of the Contractor for all vehicles and equipment. The only authorized exception to this section shall be when a vehicle or piece of equipment fails to be presented by the operating department. In such an instance, written notification shall be provided to the City detailing dates, times, department, vehicle number, and name of the department manager notified so that the City may address the problem.

5. Preventive Maintenance Intervals

Preventive maintenance services and service intervals shall meet all specifications listed in Section 10 or exceed OEM recommendations for such service. The program is subject to modification upon mutual agreement of the City and the awarded Contractor.

6. Preventive Maintenance Scheduling for New Equipment

As part of placing in service newly acquired vehicles and equipment, the Contractor’s Site Manager and the City shall jointly review and establish the proposed PM schedule to be specifically followed for that vehicle or piece of equipment.

7. Preventive Maintenance Oil Analysis Program

Upon the City’s request, the Contractor shall provide an oil sampling program for use as a diagnostic aid in determining service levels, repairs and intervals along with adjusting vehicle replacement schedules. The oil sampling program shall include but not be limited to the following:

- a. All diesel and auxiliary engines.

- b. Hydraulic systems for personnel aerial lift devices, boom trucks, ladder trucks, etc., exclusive of hydraulic brake systems.
- c. All construction equipment so designated by the City and agreed to by the Contractor, which may or may not fall into the range of equipment designated above.

Any requested oil sampling services shall be billed at the contracted hourly rate.

8. Preventive Maintenance Coolant Analysis Program

Upon the City's request, the Contractor shall provide a coolant sampling program for use as a diagnostic aid in determining coolant/filter change intervals along with detection of engine cooling problems. This program is to include all liquid cooled engines.

Any requested coolant system analysis services shall be billed at the contracted hourly rate.

9. Personal Lift Device Inspection and Certification

The Contractor shall develop and implement an annual program for the inspection and certification of all City owned personal lift devices in accordance with state, Federal or local standards. The inspections shall be completed by a certified inspector hired by the Contractor once per year. Each fifth year the vehicle shall be transported to the manufacturer's distributor or City approved vendor for its five (5) year inspection and rebuild as required. A written report of findings, corrective actions taken and certification shall be provided to the City, Risk Manager and operating department. Additionally, a copy shall be included in the individual equipment vehicle files maintained by the Contractor for the City. The Contractor shall be responsible for the certification and cost of the certification including mandatory rebuilds of these devices included in the contract cost.

10. Preventive Maintenance (PM) Schedule

Preventive Maintenance (PM) shall be performed according to manufacturer's requirements. The items listed below shall also be performed at each PM.

Safety checklist: The following items must be inspected at every PM:

- 1) Headlights.
 - c) high beam
 - d) low beam
- 2) Beam indicator light.
- 3) Parking lights.
- 4) License plate lights.
- 5) Tail lights.
- 6) Stop lights.
- 7) Clearance lights.
- 8) Directional signals.
- 9) Hazard/four (4) way warning lights.
- 10) Emergency brake.

- 11) Steering mechanism and suspension including tie rods, drag link, pittman arm, ball joints, etc.
- 12) Windshield wipers and washers.
- 13) Horn.
- 14) Rear view and side mirrors.
- 15) Exhaust system, exhaust system hangers and clamps.
- 16) Inspect all interior lights.
- 17) Inspect fluid levels of oil, coolant, windshield washer solvent, transmission, differential and power steering units.
- 18) Inspect battery, charging system, terminals and cables and battery box.
- 19) Inspect heating and air conditioning systems.
- 20) Inspect frame, cross members and body joints.
- 21) Inspect operation of the engine starting system circuit.
- 22) Inspect drive shaft, U-joints, CV joints and boots.
- 23) Inspect any fuel, oil, coolant or other fluid leaks.
- 24) Inspect air and emission filters and valves as needed.
- 25) Inspect hoses, clamps and belts.
- 26) Inspect operation of all gauges.
- 27) Inspect all grease points on chassis, hinges, locks, suspensions systems, etc.
- 28) Inspect engine oil and filter.
- 29) Inspect tires as required.
- 30) Inspect vehicle for body damage, rust, interior, seats, knobs, doors, carpet, switches, headliners, etc.
- 31) Inspect air filter as necessary. Must be completed at a minimum of twelve (12) months or 12,000 miles whichever occurs first.
- 32) Inspect brake components (pads, shoes, rotors, drums, hardware, hoses, etc.) as needed to ensure proper functioning. **NOTE:** Every brake job shall include a new brake hardware kit including springs, hold downs, rollers, etc.
- 33) Perform road test and correct any deficiencies.

a. Tractors / Heavy Equipment / Diesel / Specialty Equipment

Tractors (farm type), fire trucks, diesel powered equipment, and other heavy/specialized equipment **may be excluded from this agreement as determined by the City.**

b. Trailers

Light Duty Trailers (up to one ton) - conduct a semi-annual safety inspection, complete lubrication, repack wheel bearings and repair as required.

Heavy Duty Trailers (exceeding one ton) - provide quarterly safety inspections and complete repair and lubrication including operation of any attachments such as winches, ramps, gates, etc., in accordance with Federal Motor Carrier regulations.

c. Ancillary Services

1) Quick Fix

The Contractor will provide a quick fix solution for repairs of less than one (1) hour duration. This service shall be offered at all times during normal hours of business operation as part of the Contract cost. Typical quick fix repairs may include but are not limited to lights, wiper blades, battery replacements, etc.

2) Parts

The Contractor shall be responsible for purchasing and maintaining the entire parts and supplies inventory for all commonly used parts, lubricants, tools and operating supplies (hereafter “parts”) that are required for preventive maintenance services. All parts shall meet or exceed OEM specifications. The Contractor shall manage the inventory consistent with good inventory management practices.

The Contractor shall set inventory levels in a realistic manner to support the number and type of vehicles operated by the City. The City shall have oversight of inventories and may adjust quantities up or down. The City reserves the right to reject parts not meeting OEM specifications.

If the Contract is severed prior to the end of the Contract period, the City will purchase the remaining inventory from the Contractor at the actual cost paid. Therefore, it is imperative that the Contractor maintain an accurate accounting of inventory value at all times during the term of the Contract.

3) Training

The Contractor shall provide continuous training for his/her employee. The City shall be made aware of all training. Systems included on CATS/LYNX Buses should be considered in regards to contractor’s employee training.

4) Re-Repair

Re-repair is the repair of the same failure within the warranty period due to parts failure, mis-diagnosis or mechanic error. The Contractor shall track and identify re-repair work and shall not include the cost of re-repairs, parts, labor or supplies in the monthly statement.

1) Misuse, Abuse or Negligence of Equipment

The City wishes to have any knowledge of equipment misuse, abuse or negligence by its employees. The Contractor shall be required to submit suspected reports of misuse, abuse or neglect to the City in any case where evidence provides reasonable cause to suspect misuse, abuse or negligence. The Contractor will inform the City via email or telephone immediately, followed by a written report.

2) Welding and Fabrication

Welding and fabrication are integral parts of fleet maintenance operations and all costs including welding rod, wire, supplies, protective clothing and equipment and all materials (steel aluminum, etc.) are the responsibility of the Contractor. All welding and fabrication requirements as part of repairs shall be performed at all times during the term of the Contract period.

Welding and fabrication required as part of repairs shall be billed at the contracted hourly rate.

3) Fleet Management Information System

The Contractor shall own and provide the Fleet Management System. It will be operated by the Contractor and 100% access to the City's records shall be available to the City with unrestricted access at all times via the internet.

4) Fleet Management Reporting Requirements

The Contractor shall provide the City or designee access at all times to electronic data, books, records, correspondence, instructions, plans, drawings, receipts, invoices, vouchers and memoranda of every description, pertaining to the work under the Contract for the purposes of audit and verification of work performed.

The information system shall provide records on all repairs and services performed for each vehicle and piece of equipment. Under no circumstances shall the originally assigned City equipment number be changed or altered and all record entries shall utilize the original vehicle/equipment number. All previous history with the vehicles and equipment shall remain intact with the originally assigned City equipment number. The Contractor shall enter daily, all repair work order data including labor, contracted services, parts transactions, fuel charges and other data deemed necessary by the City. The Contractor shall provide work orders, PM inspection reports and other special forms necessary for meeting the requirements of this Contract.

At the termination of the contract, the Contractor shall provide a digital record of all vehicles detailing the services provided for each vehicle. This record must be in a format that can be utilized by the City and/or another maintenance provider.

5) Files

The Contractor shall maintain a complete file of service manuals, service bulletins, lubrication charts and other information necessary to properly service all City vehicles and equipment. A computer database is sufficient to meet this requirement.

A history shall be maintained by the Contractor for each City vehicle and piece of equipment. This folder shall contain, in chronological order, all work orders generated specific to the vehicle or equipment, correspondence of any nature pertaining to the vehicle or equipment such as manufacturer's recall orders or service bulletins and memoranda pertaining to service and repairs. Additionally, all vehicle and equipment folders shall contain information such as make, year, model, vehicle identification number (VIN) and a spare set of keys where applicable.

6) Outside Repairs

The Contractor shall be responsible for arranging and managing the conduct of outside repairs which cannot be economically performed in house and shall be responsible for continuing review of the need for specific outside repairs as opposed to performing such work in house. These outside repairs may include transmission overhaul and repair, radiator repair, engine overhaul and repair, hydraulic system

repair or overhaul, major equipment overhaul or repair and other such works orders done to minimize the City's down time. Outside repairs shall be discussed with the City to ensure the outside versus inside repair decision remains justified. All responsibility, paperwork, invoicing, quality control, vehicle movement to and from outside repair facilities, costs, vehicle security, etc., shall be the responsibility of the Contractor and part of the Contract cost.

7) Subcontracting

The Contractor may subcontract services with prior approval of the City. No such approval shall be construed as making the City a party of or to such subcontract or subject the City to liability of any kind to the subcontractor. No subcontract of any kind shall under any circumstance, relieve the Contractor of its liability and obligation under the Contract and despite any subcontract, the City shall deal through the Contractor and subcontractors shall be dealt with as workmen and representatives of the Contractor.

The City reserves the right to request more than one (1) proposal for any subcontract work and shall have the right to approve or disapprove the subcontractor. The Contractor's plan for subcontract repair shall be stated in the proposal. All subcontract repair costs shall be the Contractor's responsibility and included in the Contract cost.

Directed items for repair not covered in this Contract but deemed necessary by the City to keep the fleet in a well maintained condition shall also be included in the Contract cost.

Directed repairs for items not covered in this Contract which are not considered to be necessary for proper fleet maintenance shall not be included in the Contract cost but shall be invoiced time plus actual parts and materials cost. The time charge for such repairs shall not exceed that published in the MITCHELL flat rate table, latest edition if work is automotive related. All welding and fabrication functions as described above are included in the Contract cost and therefore not subject directed repair costs.

8) Emergency Conditions

The Contractor shall mobilize the shop and provide repair and maintenance services for the duration of emergency situations such as flood, hurricane, snow storm, earthquake, fire, tornado, etc. and other emergencies declared by the Mayor. Such service shall include adequate staffing to ensure continuous twenty-four (24) hour support for the emergency period or required by the Mayor or designee. Such circumstances may occur outside normal hours of business operation and can involve any number of employees or equipment. Costs incurred for operations outside of normal duty hours shall be billed at a rate of no more than the agreed hourly or overtime labor costs plus cost of parts and materials. Services provided outside the scope of work of the Contract shall be billed separately. Staffing levels during emergencies shall be approved by the City.

Repair priorities in emergency situations may be revised by the Mayor or designee.

9) Facilities

A facility to be owned or leased and operated by the Contractor shall be included in the Contract cost and subject to approval by the City prior to the start of the Contract. All costs for necessary operational requirements such as water, electricity, HVAC, telephone, gas, propane, garbage and hazardous waste disposal, recycling of batteries, coolant, Freon, oil and fluids, etc., shall be borne by the Contractor and included in

the proposed Contract price. This shall include any maintenance costs to the structure or systems such as plumbing, HVAC, electrical, etc. These costs shall be included in the proposed Contract price.

10) Permits, Licenses and Fees

All permits, licenses and fees required for the Contractor to conduct all requirements of this Contract shall be the responsibility of the Contractor. Any non-compliance items discovered by OSHA, Department of Environmental Protection (DEP), American National Standards Institute (ANSI), etc. shall be the responsibility of the Contractor and must be corrected, repaired, or replaced as required and brought into conformance without undue delay. All costs for compliance fines levied shall be the responsibility of the Contractor.

11) Tools and Equipment

The Contractor must provide all equipment, tools, hoist, lifts, drains, and office furniture except that used by the City. The Contractor may provide or purchase other equipment with his/her own funds and shall be wholly owned by the Contractor. Installation of such equipment is subject to approval by the City.

12) Quality Assurance Program

The Contractor shall provide the City a Quality Assurance Program for the maintenance of City vehicles and equipment.

Performance standards shall include, as a minimum, as follows:

- a) Fleet availability.
- b) Manufacturer's warranties.
- c) PM Performance.
- d) Repair performance.
- e) Parts availability.

13) Repair Priority

The Contractor shall provide preventive maintenance, scheduled and unscheduled repairs to vehicles in a priority set by the City.

14) Hours of Operation

The Contractor's shop shall be open, a minimum of, Monday through Friday from 8:00 AM to 5:00 PM. The Contractor may vary operating hours only upon approval of the City. Vehicles and equipment will be accepted for PM's or repair during these hours. The Contractor may, at their option, work on City vehicles and equipment on scheduled City holidays but will not be required to accept vehicles and equipment for PM or repair during holidays. Contractor must be available or arrangements shall be made for weekend and holiday drop-offs (primarily for Public Safety and Transit). City holidays observed are as follows:

- New Year's Day
- Martin Luther King, Jr./Civil Rights Day

- President's Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- The Day After Thanksgiving
- Christmas Day

15) Investigation

The Contractor shall support the City with technical investigations related to the fleet. Such investigations may include accidents, abuse, or other issues of a technical nature.

16) Inspection of Work

The Contractor shall furnish the City or designated representative every reasonable opportunity for inspection to determine if work is being performed per the terms of this Contract. The City shall provide a twenty-four (24) hour notice of such inspection.

17) Auditing of Contractor

The City or designee shall have access to all of the Contractor's personnel books, records, invoices, correspondence, instructions, plans, drawings, invoices, receipts, vouches and memoranda of every description pertaining to work performed under this Contract for the purpose of verifying actual work performed. The Contractor shall make all efforts to accommodate such requests for audit by the City at any reasonable time.

18) Reserved

19) Waste

The Contractor shall be responsible for disposing of all trash, oil, oil filters, fluids, batteries, parts and all other waste generated in the repair/service requirements of this Contract. Price shall be included in the Contract cost. All such disposal must be in accordance with current city, county, state and Federal regulations and laws. The Contractor shall be responsible for training employees regarding working with hazardous materials. Additionally, the Contractor shall comply with all Federal "Right to Know" regulations and legislation. The Contractor shall hold the City harmless for any and all actions of the Contractor regarding storing, handling and disposal of waste.

20) City's Responsibilities

- a) Communicate regularly with the Contractor to resolve questions and issues on a daily basis.

- b)** Make all data available to the Contractor, which in the opinion of the City, is necessary to for the Contractor to provide quality service under the terms of this Contract.
- c)** Insure the Contractor has access to repair or maintain all vehicles and equipment under the terms of this Contract.
- d)** Provide purchasing support for any directed repairs as required.
- e)** Pay for all fuel for all vehicles and equipment except that owned and operated by the Contractor.

EXHIBIT B
OFFER SECTION

A. OFFEROR

Firm Name:

Big O Tires

Contact Name:

Chris Ogden

Principal Address:

1708 State Route 260
Cottonwood AZ 86326

Local Address:

Phone:

928 634 -0333

Fax:

928 634 -0385

E-Mail:

store00455@bigostores.com

Type of Organization:

Vehicle maintenance

Tax ID #:

~~000000000~~

License #:

130388146

City of Cottonwood Business Registration #:

22-00570

B. Exceptions to RFP:

(See Information & Instructions §4.5.4 Exceptions to Solicitation and Section 1, paragraph 2 of the RFP)

C. Disclosure of Debarment information:

NA

(See Information & Instructions §4.5.5 Disclosure)

D. Disclosure of Related Party Transactions:

Cost + 10%

(See Information & Instructions §4.5.6 Related Party Transactions)

E. COST: Offeror will state a cost for:

a. Hourly rate for repairs.

\$ 80.00

b. Hourly cost of overtime repairs.

\$ 80.00

F. Offeror certifies that they ☒ are or ☐ are not able to provide vehicle maintenance services for the entire fleet for the City of Cottonwood.

G. Offer certifies that they ☐ do or ☒ do not have a computerized records management system accessible by the City that contains the vehicle maintenance data. If Offer does have a computerized records management system, is the system capable of importing and exporting vehicle maintenance files? ☐ Yes ☒ No

H. PRICE MATRIX: Offeror will provide the price matrix for percentage markup on parts and supplies for City repairs and maintenance.

I. LIST OF MAJOR SUPPLIERS:

Larry Green, Jones Ford, Napa, Autozone,
O'Pielly Auto, LKQ, Wheelpros,

- J. **APPROACH TO PROPOSAL:** Offeror will describe their approach to the City's need for a fleet vehicle maintenance solution (attach as separate documents as needed). Please include what services are included/excluded from your proposal (examples may be: tires only, heavy diesel only, excludes heavy diesel, etc.)

Tires, Brakes, suspension, oil changes, minor repairs

TURNAROUND TIME: Offer will provide a turnaround time for all public safety vehicles of 1 days/hours.

- K. **REFERENCES** (Must be provided):

Provide names, addresses and telephone numbers of a minimum of three (3) references (public or private sector) to which you have provided similar goods or equipment. An additional sheet may be attached if needed.

1. Entity: D.P.S. Department of public safety

Address: _____

Contact: Gene moran

Phone: 928-301-1412

Goods or Services supplied and when provided: Tires, Brakes, Lofilter

Duration of Contract: 25 + years

2. Entity: Wesco

Address: _____

Contact: Don Collier

Phone: 928-301-1157

Goods or Services supplied and when provided: Tires, oil changes, Fuel filters
Brakes, suspension Semi TRUCKS

Duration of Contract: 20 + years -

3. Entity: Yavapai Apache nation

Address: _____

Contact: Stacey

Phone: 928-830-3402

Goods or Services supplied and when provided: Tires Brakes, Lof

Duration of Contract: 20 + years

- L. **FACILITY INFORMATION:** Offeror will state the location of their proposed facility, its principal maintenance and safety features (number of bays, lube racks, lifts, special equipment, etc.)

Facility Location: 1708 State Route 260

Principal Maintenance and Safety Features (attach as separate document if needed):

6 Bays, 4 Lifts, Highmax Rack 4 Tire machines
2 Balancers.

M. **RECEIPT OF ADDENDA:**

Offeror acknowledges receipt of the following Solicitation Addendum(s):

Addendum No.
FY23-45-02

Date
09/29/22

By signing below, the Undersigned certifies that the statements provided herein are accurate and certifies the intent to be bound by such statements.

Name of Contractor:

Chris Ogden / Big O Tires

Signature:

[Signature]

By:

Chris Ogden

Title:

Manager

Business Address:

1708 State RTE 260

Telephone:

928-634-0333

Email Address:

Starz 004053@bigostarz.com

CLAIMS EXCEPTIONS REPORT OF DECEMBER 6, 2022			
FUND	VENDOR NAME	DESCRIPTION	TOTAL
All	City of Cottonwood	Payroll 11/25/2022	721,717.01
All	APS	Electric Utilities	93,157.99
Gen	Arizona State Treasurer	Court Fines	17,313.82
Gen	Axon Enterprises Inc	Taser Certifications	28,006.56
Utilities	Border States Electric Supply	Electrical Supplies	15,903.12
All	City of Cottonwood	Water & Wastewater Utilities	30,640.16
Utilities	Core & Main	Water Supplies & Meters	107,090.05
All	Diesel Direct	Fuel	13,044.34
All	Enterprise Fleet Management	Enterprise Fleet Leases	37,972.18
Utilities	Ferguson Waterworks	Water Supplies & Meters	11,843.98
Gen	FX Tactical	Uniforms and Bullet Proof Vests	7,349.21
All	GARDA	Armored Car Services	5,499.81
Transit	Hansen Enterprises Fleet Repair	Vehicle Maintenance	19,452.02
Gen	Jefferson Street Signage District LLC	Custom Graphics and LED Board Run dates Nov 14, 20 & Feb 17 to June	16,917.25
All	KAIROS Health of Arizona	Sept, Oct and November Premiums	733,194.62
Utilities	KP Ventures Drilling	Well Improvements & Injection Well	119,587.41
Gen	L.N. Curtis & Sons	Firehose and Test Valves	5,563.11
HURF	Point Engineers LLC	Main Street Design Services	10,961.47
Utilities	Rausch Electronics	CCTV Inspection Vehicle	313,815.34
Gen	State of Arizona - ADEQ	MS4 Permit	5,000.00
Gen	Unicomm LLC	Travel Shows Marketing	7,845.00
Capital	Westwood Professional Services Inc	Railroad Wash breakout and Silver Springs Study	10,736.50
TOTAL			\$ 2,332,610.95