

**AGREEMENT BETWEEN
THE CITY OF EL MIRAGE, ARIZONA
AND
PHOENIX GOSPEL MISSION, INC. dba PHOENIX RESCUE MISSION
Agreement No. XXXX**

THIS AGREEMENT (this "Agreement") is entered into as of November 7, 2021, between the CITY OF EL MIRAGE, an Arizona municipal corporation (the "City"), and **PHOENIX GOSPEL MISSION, INC. dba PHOENIX RESCUE MISSION**, a(n) Arizona corporation ("Contractor"), hereafter, the "Parties."

RECITALS

A. After a bid solicitation, the CITY OF PEORIA ("PEORIA") entered into Contract Number ACON46519 with Contractor (the "Contract") on 10/8/2019, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.

B. The City is permitted to purchase the Services under the Contract without further public bidding, and the Contract permits its cooperative use by other governmental agencies including the City.

C. The City's Procurement Code permits the Procurement Manager to authorize a procurement through the use of a contract initiated by another governmental entity provided (1) The contracting entity desires to enter into a contract with the City; (2) The contract has not expired; (3) The contract is for identical or nearly identical supplies, goods or services; (4) The contract resulted from a competitive bid using acceptable methods not in violation of any state statutes. The City believes all these conditions are met for purposes of this Agreement.

D. The City desires to contract with Contractor for supplies, goods or services identical, or nearly identical, to the supplies, goods or services Contractor is providing PEORIA under the Contract, Contractor consents to the City's utilization of the Contract as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the services set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the covenants and promises contained herein, the parties hereby agree as follows:

1. Term of Agreement.

This Agreement shall be effective as of the date first set forth above and shall expire upon the expiration of contract ACON46519, unless terminated, cancelled, or extended as otherwise provided herein.

2. Scope of Work: Terms, Conditions, and Specifications.

a) Contractor shall provide the City the identical, or nearly identical, supplies, goods, or services Contractor provides PEORIA under the Contract.

b) Contractor agrees to comply with all the terms, conditions and specifications of the Contract for the purposes of this Agreement which terms, conditions, and specifications are incorporated herein by this reference.

- c) The "City of El Mirage" shall be substituted for PEORIA throughout the Contract.
- d) In place of any termination/cancellation provisions in the Contract, the following shall be substituted:
 - i. 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.
 - ii. 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.

3. Compensation.

- a) The City shall pay the Contractor the same compensation PEORIA pays Contractor under the Contract.
- b) The total purchase price for the supplies, goods, or services as authorized in this Agreement is not to exceed the total price of purchase orders issued by the City under this Agreement.

4. Conflict.

- a) Any terms or conditions in the Contract are void where they conflict with this Agreement.

5. Payments.

- a) The City shall pay the Contractor using the same process as is set forth in the Contract.

6. Applicable Law.

In the performance of this Agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of El Mirage 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.

The Contractor warrants, for the term of this Agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

This Agreement shall be governed by the City and the Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this Agreement or in statutes pertaining specifically to the City. 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.

This Agreement is subject to the provisions of ARS §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 the 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 subject matter of the Agreement.

7. Indemnification.

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the City and each council member, officer, board, commission, officers, officials, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, claims processing, investigation, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or in connection with the negligent or willful acts or omissions of work or professional services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the City. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

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

"City"

**City of El Mirage,
an Arizona municipal corporation**

"Contractor"

**PHOENIX GOSPEL MISSION, INC. dba PHOENIX
RESCUE MISSION**

