

# **Contract #171769**

## **Cardiac Monitors**

### **ZOLL Medical Corporation**

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# **1. ZOLL's Signed Letter of Concurrence**

August 14, 2017



**CITY OF  
TUCSON**

DEPARTMENT OF  
PROCUREMENT

Amy Coffin  
Bid & Proposals Coordinator  
ZOLL Medical Corporation  
269 Mill Road  
Chelmsford, MA 01824  
[acoffin@zoll.com](mailto:acoffin@zoll.com)

Sent via electronic mail, this day

**Subject: Request for Proposal No. 171769 – Cardiac Monitors  
Summary of Negotiated Items/Letter of Concurrence**

Dear Ms. Coffin:

Based upon the previous discussions and negotiations, this letter serves as a request for confirmation that the statements below represent your firm's best and final offer to the City of Tucson regarding the subject solicitation. Points of agreement not identified below are not included in the offer. In the event there is any disagreement with this document or if there is other information that must be included in the document, Zoll Medical must specify such in a written response to this request.

**1. Best and Final Pricing**

- a. Zoll shall provide a trade-in credit for 55 MRX Monitors at \$8,534.00 each for a total of \$469,370.00
- b. Zoll shall provide a credit on the Tucson Fire account for the return of the Multifunction Therapy Cable – X Series and CPR Connector in the amount of \$11,500 to be utilized toward future purchases of accessories, etc. Zoll shall handle the return of these items at the time of implementation.
- c. Zoll agrees to offer a 3% administrative fee to the City on all sales to other agencies. Zoll shall pay the fee quarterly, within 60 days after the end of the quarter for all EMS/Fire Agencies. The form for which other EMS/Fire agencies must sign to utilize this contract is attached to this letter.

**2. Special Terms and Conditions**

The agreed upon Special Terms and Conditions are attached to this letter.

**3. Standard Terms and Conditions**

The agreed upon Standard Terms and Conditions are attached to this letter.

**4. Business Associate Agreement**

The Business Associate Agreement shall supersede any conflicting data and is contained within the EULA.

**5. ZOLL Online Terms of Use Section 8**

The City would like to add the following language to Section 8 of the Online Terms of Use. This language aligns with the standard in the software industry where direct damages are covered.

*8.D. Notwithstanding the above, the City's exclusive remedy shall be the recovery of the direct damages actually suffered by it.*

**6. ZOLL Online Application Service Provider Agreement Section 6**

The City would like to align this language with the standard software industry to a "TWELVE (12)" month period rather than "SIX (6)."

*ZOLL's total cumulative liability in connection with this Agreement and the Software, whether in contract or tort or otherwise, will not exceed the amount paid TO ZOLL BY CUSTOMER FOR the ASP SERVICES provided UNDER THIS AGREEMENT IN THE PREVIOUS SIX (6) TWELVE (12) MONTH PERIOD.*

ADMINISTRATION • DESIGN AND CONSTRUCTION SERVICES • GOODS AND SERVICES  
MAIL SERVICES • S.A.M.M. (SURPLUS AUCTION MATERIALS MANAGEMENT)  
CITY HALL • 255 W. ALAMEDA • P.O. BOX 27210 • TUCSON, AZ 85726-7210  
(520) 791-4217 • FAX (520) 791-4735 • TTY (520) 791-2639  
[www.tucsonprocurement.com](http://www.tucsonprocurement.com)

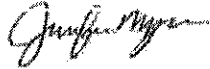
**7. Order of Precedence**

The order of precedence for documents shall be in the following order:

1. Letter of Concurrence
2. Negotiated Special Terms and Conditions
3. Negotiated Standard Terms and Conditions
4. Business Associate Agreement
5. EULA
6. ZOLL's Proposal
7. Original RFP

Your response to this letter must be received by the City's Department of Procurement on or before August 17, 2017 at 4:00 p.m. local Arizona time. Please contact me with any questions.

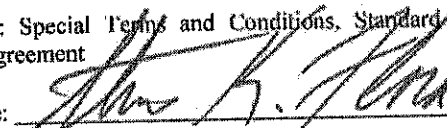
Sincerely,



Jenn Myers  
Senior Contract Officer

Attachments: Special Terms and Conditions, Standard Terms and Conditions, ZOLL Business Associate Agreement

Concurrence:



Date:

8/16/2017

Name/Title:

Steven Flora, Senior VP, North American Sales

## **2. City Request for Letter of Concurrence**

August 14, 2017



Amy Coffin  
Bid & Proposals Coordinator  
ZOLL Medical Corporation  
269 Mill Road  
Chelmsford, MA 01824  
[acoffin@zoll.com](mailto:acoffin@zoll.com)

*Sent via electronic mail, this day*

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Sincerely,



Jenn Myers  
Senior Contract Officer

Attachments: Special Terms and Conditions, Standard Terms and Conditions, ZOLL Business Associate Agreement

Concurrence: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

## **SPECIAL TERMS AND CONDITIONS**

- 1. SAFETY STANDARDS:** The Bidder/Offeror shall certify that the equipment being bid/offered is designed and includes operating features that comply with the safety standard promulgated under the Federal Occupational Safety and Health Act (OSHA). If the equipment being bid/offered is governed by OSHA regulations the successful Bidder/Offeror is required to submit a certificate stating that such equipment complies with applicable OSHA standards.

During the term of this Contract, should there be modifications in federal and/or state laws and regulations regarding safety standards or other specifications and marketing procedures for the contracted item(s), the City of Tucson reserves the right to amend the Contract to provide for the delivery of items which conform to such changes. As a result, the City will negotiate any necessary price changes with the Contractor. Should negotiations fail the City may cancel the Contract for the affected items.

- 2. DEFECTIVE PRODUCT:** All defective products shall, at the Contractors sole discretion, be repaired, replaced or exchanged by the Contractor. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. Contractor will supply a loaner for any equipment returned if it cannot be repaired or replaced within seven (7) days of initial notification.
- 3. WARRANTY:** Bidder/Offeror shall warrant that all equipment and parts furnished in their bid/offer are newly manufactured and free from defects in material and workmanship for no less than one (1) year from the date the equipment is delivered or installed. Warranty shall also guarantee accepted trade standards of quality, and conformance to promises or specified specifications. No other express or implied warranty shall eliminate the Contractor's liability as stated herein.
- 4. EQUIPMENT/RECALL NOTICES:** In the event of any recall notice, technical service bulletin, or other important notification affecting equipment purchased from this contract, a notice shall be sent to the Contract Representative. It shall be the responsibility of the contractors to assure that all recall notices are sent directly to the agencies Contract Representative.
- 5. FOB DESTINATION FREIGHT PREPAID:** Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.
- 6. PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.
- 7. TERM AND RENEWAL:** The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

- 8. COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See [http://www.tucsonprocurement.com/coop\\_partners.aspx](http://www.tucsonprocurement.com/coop_partners.aspx) and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf> for a listing of participating agencies. The parties agree that these lists are subject to change.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

**9. INSURANCE:**

The Contractor agrees to:

- A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. Contractor will not cancel any of the required coverage without first providing thirty (30) days written notice to the City.
- B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured, but only with respect to liability arising directly from ongoing operations performed by the Contractor on behalf of the City. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. With respect to sole negligence of the contractor, the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable

COVERAGE	LIMITS OF LIABILITY
<b>I. Commercial General Liability:</b>	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Project	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
<b>II. Commercial Automobile Liability</b>	

Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement. Combined Single Limit	\$1,000,000
<b>III. Workers' Compensation (applicable to the State of Arizona)*<sup>1</sup></b>	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
<b>V. Professional Liability – Technology Errors &amp; Omissions - In addition to I, II, III</b>	
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

\*<sup>1</sup> Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

**D. ADDITIONAL INSURANCE REQUIREMENTS:** Policies shall be endorsed to include the following provisions:

1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor (including Worker's Compensation).
2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

**E. NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Contractor to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.

**F. ACCEPTABILITY OF INSURERS:** Contractors insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**G. VERIFICATION OF COVERAGE:** Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department of Procurement.

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- H. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- I. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance.

## STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
7. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
8. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
9. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
10. **CONTRACT AMENDMENTS:** The Procurement Department, with mutual written agreement by Contractor, has the authority to:
  - A. Amend the contract or enter into supplemental verbal or written agreements;
  - B. Grant time extensions or contract renewals;
  - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

11. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial

non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

12. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, and after the Contractor has been provided an opportunity to cure, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
13. **DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
14. **EQUAL PAY:** The Contractor shall comply with the applicable provisions of the Equal Pay Act of 1963 (Pub.L. 88-38, 29 U.S.C. section 206(d)); Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352, 42 U.S.C. 2000e *et seq.*; and, the Lily Ledbetter Fair Pay Act of 2009 (Pub.L. 111-2).
15. **EXCLUSIVE POSSESSION:** All services, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
16. **FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

17. **FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

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

18. **GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this

provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

- 19. HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.
- 20. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractor agrees to waive all rights of subrogation against the City of Tucson, its agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54. 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

- 21. INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

- 22. INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor in accordance with the Contractor's Warranty & Return Policies. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.
- 23. INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.
- 24. ISRAEL BOYCOTT DIVESTMENTS:** Acceptance of the contract warrants that the vendor is in compliance with A.R.S. § 35-393 and does not participate in a boycott of Israel as that term is defined within A.R.S. § 35-393.
- 25. LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

- 26. LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.
- 27. NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.
- 28. NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.
- 29. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.
- 30. PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

- 31. PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.
- 32. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
- 33. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.
- 34. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.
- 35. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- 36. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in

the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

- 37. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.
- 38. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- 39. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.
- 40. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
- 41. TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, and after providing the Contractor an adequate opportunity to cure. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this

Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

42. **TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
43. **WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.



**Business Associate Agreement  
Between  
The City of Tucson and ZOLL Data Systems, Inc.**

This Agreement is entered into between the City of Tucson (hereinafter "Covered Entity" or "City of Tucson") and ZOLL Data Systems Inc. (hereinafter "Business Associate" or "BA").

This Agreement is incorporated into all existing and current contract(s) between the parties (the "Underlying Contract(s)") under which Business Associate is carrying out activities or functions involving the use of protected health information (PHI), as this term is defined in 45 CFR Parts 160 and 164, and it replaces any prior agreement(s) entered concerning such PHI. Business Associates must comply with all requirements for protecting PHI under federal Privacy and Information Security regulations and are subject to the application of civil and criminal penalties under sections 1176 and 1177 of the Social Security Act. Covered Entity is committed to providing high quality patient care, education, and research. In furtherance of its mission, Covered Entity wishes to conduct transactions involving the disclosure of PHI to Business Associate for the purpose of conducting the activities set forth in the Underlying Contract(s).

Some or all of the information to be disclosed is required by law to be protected against unauthorized use, disclosure, modification or loss. In order to comply with applicable legal requirements for the protection of information, the parties agree as follows:

**A. ALLOWABLE USES OF PHI**

Only the minimum necessary PHI to accomplish the intended purpose of this agreement can be used or disclosed only for the following purposes:

1. Support of the TFD RescueNet suite of applications.

2. \_\_\_\_\_

**B. OBLIGATIONS OF BUSINESS ASSOCIATE**

**Section 1. Safeguarding Information.**

A. Business Associate shall only use, store, disclose, or access PHI:

(1) In accordance with, and only to the extent permissible under the Underlying Contract; and

(2) In full compliance with any and all applicable laws, regulations, rules or standards, including, but without limitation, FERPA, HIPAA, the Gramm-Leach-Bliley Financial Services Modernization Act (GLB), the Federal Trade Commission Identity Theft Rules, the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the Social Security Act, RCW 19.255.010 and RCW 42.56.590.

B. Business Associate shall have in place policies and procedures to implement and maintain all safeguards necessary to ensure the confidentiality, availability, and integrity of all Covered Entity data. Such safeguards shall include as deemed appropriate by Business Associate, and without limitation, use of: policies and procedures to prevent any unauthorized use or disclosure of, or access to, PHI; restrictions on administrative access to PHI; system firewalls, secure network and transfer protocols such as Secure Socket Shell (SSH), Secure Copy Protocol (SCP), Hyper-Text Transfer Protocol over Secure Sockets Layer (HTTPS), or Internet Protocol Security (IPSec); industry compliant network authentication protocols such as Kerberos or Lightweight Directory Access Protocol (LDAP); encryption; regular and timely system upgrades, including implementation of security patches; disk quotas to ensure system availability; logging in accordance with City of Tucson specifications (as communicated by City of Tucson to Business Associate in writing), maintenance of logs on centralized servers; and backup systems for disaster recovery, security, and forensics purposes.

## **Section 2. Use or disclosure of Protected Health Information.**

Business Associate shall not use or disclose PHI received from Covered Entity in any manner that would constitute a violation of federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and any regulations enacted pursuant to its provisions ("HIPAA Standards"), or applicable provisions of Arizona state law. Business Associate shall ensure that any use or disclosure by its directors, officers, employees, contractors, and agents of PHI received from Covered Entity, or created or received on behalf of Covered Entity is in accordance with the provisions of this Agreement and applicable federal and state law. Business Associate shall not use or disclose PHI in any manner other than that permitted or required by the Covered Entity for the purpose of accomplishing services to or on behalf of Covered Entity in accordance with the Underlying Contracts. Notwithstanding the foregoing, Business Associate may use and disclose PHI for the proper management and administration of the Business Associate and to carry out its legal responsibilities; provided that such disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. In addition, Business Associate may use or disclose PHI received or created by it to provide data aggregation functions to Covered Entity as permitted by HIPAA Standards.

## **Section 3. Reporting of Unauthorized Use or Disclosure of PHI.**

Business Associate shall, within five (5) business days of becoming aware of an unauthorized use or disclosure of PHI by Business Associate, its officers, directors, employees, contractors, agents or by a third party to which Business Associate disclosed PHI, report any such disclosure to Covered Entity. Such notice shall be made to the following:

The City Attorney  
City of Tucson  
255 West Alameda Street  
Tucson, AZ 85701

**Section 4. Agreements by Third Parties.**

Business Associate shall obtain satisfactory assurances from any agent or subcontractor who will have access to PHI that is received from Covered Entity, or created or received on behalf of the Covered Entity, and shall ensure that the agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Business Associate through this Agreement with respect to PHI. Business Associate shall require that any agent or subcontractor notify Business Associate of any instances in which PHI is used or disclosed in an unauthorized manner. Business Associate agrees to notify Covered Entity of any such unauthorized use or disclosure. Business Associate shall take steps to cure the breach of confidentiality and end the violation, or shall terminate the agency agreement or subcontract.

**Section 5. Access to Information.**

If Business Associates maintains Designated Record Set (DRS) documentation on behalf of Covered Entity, Business Associate agrees to provide access to the documentation maintained by the Covered Entity. Business Associate shall make available to Covered Entity such information for so long as it is maintained. If any individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to the Covered Entity. Business Associate shall not deny any individual's request for access to the individual's PHI. A denial of access to PHI requested is the responsibility of the Covered Entity.

**Section 6. Availability of PHI for Amendment.**

Within five (5) business days of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a DRS (for so long as the PHI is maintained in the DRS), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. §164.526.

**Section 7. Accounting of Disclosures.**

Business Associate agrees to implement an appropriate record keeping and reporting process to enable it to provide the following information regarding disclosures of PHI: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed,

and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. If Business Associate receives a request for an accounting of disclosures, Business Associate shall forward such request to Covered Entity within a reasonable time frame to allow Covered Entity to prepare and deliver any required accounting of disclosures.

**Section 8. Restrictions on Certain Disclosure of Health Information.**

Business Associate agrees to restrict the disclosure of the protected health information of an individual, if Covered Entity agrees to a requested restriction by an individual. If Business Associate receives a request for a restriction, Business Associate shall forward such request to Covered Entity within five business days to allow Covered Entity to respond to the requested restriction.

**Section 9. Availability of Books and Records.**

Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from Covered Entity, or created or received on behalf of Covered Entity, available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Covered Entity's and Business Associate's compliance with the HIPAA Standards. Business Associate shall provide to Covered Entity a copy of any documentation that Business Associate provides to the Secretary within five business days, which documentation and information contained therein shall be kept strictly confidential by Covered Entity.

**Section 10. Return or Destruction of Information.**

At the termination of the Underlying Contract(s), Business Associate shall return or destroy all PHI received from Covered Entity, or created or received on behalf of Covered Entity, that Business Associate maintains in any form. Business Associate will retain no copies of PHI. If Business Associate determines that return or destruction of any PHI is not feasible, Business Associate shall notify Covered Entity of the reasons why return or destruction is not feasible. If destruction or return of PHI is not feasible, Business Associate shall not use PHI received from Covered Entity, or created or received on behalf of Covered Entity, in a manner other than those permitted or required by state and federal laws or for the purposes described herein.

**Section 11. Electronic Protected Health Information ("ePHI").**

If Business Associate creates, receives, maintains or transmits ePHI on behalf of Covered Entity, Business Associate agrees to (1) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Covered Entity's ePHI in accordance with Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations; (2) ensure that any third party agent or subcontractor who receives Covered Entity's ePHI from Business Associate agrees to implement equivalent administrative, physical and technical safeguards; and (3) deploy appropriate safeguards to implement the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in

carrying out security standards; and (4) report any security incidents involving Covered Entity's ePHI within five business days of discovery.

**Section 12. Potential Breach of PHI.**

A. If Business Associate has reason to believe that personal information or PHI transmitted pursuant to this Agreement may have been accessed, disclosed, or acquired without proper authorization, Business Associate will, within fifteen business days of discovery, give City of Tucson notice and use commercially reasonable efforts to take actions as may be necessary to identify, mitigate and remediate the cause of the breach. A breach shall be treated as discovered by the BA as of the first day on which such breach is known to the BA, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of the BA) or should reasonably have been known to the BA (or person referenced above) to have occurred. Business Associate shall use commercially reasonable efforts to mitigate and remediate any unauthorized access and shall devote such resources as may be reasonably practicable to accomplish that goal. The BA shall cooperate with all Covered Entity efforts, including providing any and all information necessary to enable Covered Entity to fully understand the nature and scope of the unauthorized access, including but not limited to identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach.

B. To the extent City of Tucson deems warranted, City of Tucson may provide notice to any or all individuals affected by any unauthorized access, whose personal and/or PHI may have been improperly accessed or disclosed that was not protected according to the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in carrying out security standards. In the event that the Business Associate's assistance is required to reinstall software, such assistance shall be provided at no cost to Covered Entity and in accordance with the Covered Entity's policies and standards. Business Associate must coordinate with City of Tucson any public notification to any individual, media outlet, or the Secretary of Health and Human Services.

If City of Tucson determines that notification is required, the BA will supply City of Tucson Compliance with the following information:

- (1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
- (2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
- (3) A brief description of what the BA is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

C. Business Associate shall indemnify, hold harmless, and defend City of Tucson from and against any penalties, loss, liability, damage, costs, or expenses, including but not limited to reasonable attorneys' fees, arising from or pertaining to third-party claims or actions arising from Business Associate's breach of this agreement or the violation by Business Associate of any state or federal law applicable to the use, disclosure or protection of personal information or PHI.

D. City of Tucson has the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Business Associate's technical capabilities.

### C. Miscellaneous.

#### Section 13. Limitation on Liability.

In no event will Business Associate be liable hereunder for any consequential, indirect, exemplary, special, punitive or incidental damages, including any lost data, lost profits, and costs of procurement of substitute goods or services, arising from or relating to this Agreement; however caused and under any theory of liability (including negligence), even if Business Associate has been advised of the possibility of such damages.

#### Section 14. Termination.

Notwithstanding any provision to the contrary in the Underlying Contract(s), Covered Entity may terminate its participation in the Underlying Contract(s) immediately upon written notice to Business Associate without liability for such termination, in the event that Covered Entity determines that Business Associate has violated a material provision of this Agreement.

#### Section 15. De-identified Health Information.

Business Associate may de-identify any and all PHI and may create a "Limited Data Set" in accordance with 45 C.F.R. § 164.514(b)&(e). Covered Entity acknowledges and agrees that de-identified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

#### Section 16. Third Party Beneficiaries.

Nothing in this Addendum is intended to create any third party beneficiaries.

#### Section 17. Definitions.

**Personal Information** means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (a) Social security number;
- (b) Driver's license number or Arizona identification card number; or





**ZOLL Medical Corporation**

Worldwide HeadQuarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 249563 V:1**

DATE: July 19, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	601-2221011-01	<p><b>X Series Manual Monitor/Defibrillator \$14,995</b>            with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5" (16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display.</p> <p><b>Accessories Included:</b></p> <ul style="list-style-type: none"> <li>• Six (6) foot 3- Lead ECG cable</li> <li>• MFC cable</li> <li>• MFC CPR connector</li> <li>• A/C power adapter/ battery charger</li> <li>• A/C power cord</li> <li>• One (1) roll printer paper</li> <li>• 6.6 Ah Li-ion battery</li> <li>• Carry case</li> <li>• Declaration of Conformity</li> <li>• Operator's Manual</li> <li>• Quick Reference Guide</li> </ul> <p>• <b>One (1)-year EMS warranty</b></p> <p><b>Advanced Options:</b>  <b>Real CPR Help Expansion Pack \$ 995</b>            CPR Dashboard quantitative depth and rate in real time, release indicator, interruption timer, perfusion performance indicator (PPI)            • See - Thru CPR artifact filtering</p> <p><b>ZOLL NonInvasive Pacing Technology: \$2,550</b></p>	75	\$37,275.00	\$26,092.50	\$1,956,937.50 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 1 Subtotal \$1,956,937.50**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

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 Chelmsford, Massachusetts 01824-4105  
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**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 249563 V:1**

DATE: July 19, 2017

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FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<b>Masimo Pulse Oximetry</b>				
		<b>SP02</b> <span style="float:right"><b>\$1,795</b></span>				
		• Signal Extraction Technology (SET)				
		• Rainbow SET				
		<b>NIBP Welch Allyn Includes:</b> <span style="float:right"><b>\$3,495</b></span>				
		• Smartcuff 10 foot Dual Lumen hose				
		• SureBP Reusable Adult Medium Cuff				
		<b>End Tidal Carbon Dioxide monitoring (ETCO2)</b>				
		<b>Oridion Microstream Technology:</b> <span style="float:right"><b>\$4,995</b></span>				
		Order required Microstream tubing sets separately				
		<b>Interpretative 12- Lead ECG:</b> <span style="float:right"><b>\$8,450</b></span>				
		• 12-Lead one step ECG cable- includes 4- Lead limb lead cable and removable precordial 6- Lead set				
2	8000-0330	SpO2 Rainbow Reusable Patient Cable: Connects to LNCS Single Use and Reusable Sensors (4 ft)	150	\$295.00	\$206.50	\$30,975.00 *
3	8000-0294	SpO2 LNCS Adult Reusable Sensor (1 each)	150	\$295.00	\$206.50	\$30,975.00 *
4	8000-0580-01	Six hour rechargeable Smart battery	150	\$495.00	\$346.50	\$51,975.00 *
5	8300-0500-01	SurePower 4 Bay Charging System including 4 Battery Charging adapters	30	\$2,583.00	\$1,808.10	\$54,243.00 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 2 Subtotal \$2,125,105.50**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
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 Tel: 520-837-4137

**QUOTATION 249563 V:1**

DATE: July 19, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
6	8300-0002-02	Dual Lumen NIBP Hose, 5 Ft.- These no charge cables are to replace the 10 Ft. hoses that come standard with line 1.	75	\$125.00	No Charge	No Charge *
7	8300-0002-02	Dual Lumen NIBP Hose, 5 Ft.	75	\$125.00	\$87.50	\$6,562.50 *
8	REUSE-11-2MQ	Adult Cuff, 2-Tube, Twist lock connector	75	\$52.50	\$36.75	\$2,756.25 *
9	8300-0802-01	12-Lead one step ECG cable - AAMI includes 4-Lead trunk cable and removable precordial 6 lead set.	75	\$325.00	\$227.50	\$17,062.50 *
10	8000-000472-01	Multi- Tech Cell Modem Kit, CDMA, Verizon, US	75	\$595.00	\$416.50	\$31,237.50 *
11	8300-0520-01	Filterline Set Adult/Pediatric, Case of 25	16	\$275.00	\$192.50	\$3,080.00 *
12	8300-0524-01	Smart CapnoLine Plus O2 Adult (O2 tubing), Case of 25	16	\$355.00	\$248.50	\$3,976.00 *
13	8000-000901-01	ECG plain white paper- 80mm (pack of 6 rolls)	70	\$24.00	\$16.80	\$1,176.00 *
14	8900-0004	4 ECG electrodes/pouch (120 pouches / 480 electrodes)	4	\$96.00	\$67.20	\$268.80 *

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Page 3 Subtotal **\$2,191,225.05**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

Worldwide Headquarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 249563 V:1**

DATE: July 19, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
15	8900-0400	<i>CPR stat*padz</i> HVP Multi-Function CPR Electrodes - 8 pair/case	20	\$560.00	\$392.00	\$7,840.00	*
16	8900-000220-01	<b>OneStep Pediatric CPR Electrode</b> (8 per case)	20	\$650.00	\$455.00	\$9,100.00	*
17	8300-000676	<b>OneStep Cable, X Series</b>	150	\$425.00	\$297.50	\$44,625.00	*
18	8009-0020	<b>CPR-D Padz and CPR Stat Padz Connector for R Series</b>	150	\$375.00	\$262.50	\$39,375.00	*
19	8778-200044	<b>4 yrs Extended warranty, 1 PM per year, Battery replacement</b>	75	\$5,570.00	\$5,040.00	\$378,000.00	*
20	20100000101011010	<b>AED Plus with Graphical Cover.</b> Includes: LCD screen showing voice prompt messages, device advisory messages, elapsed time, shock count and chest compression bar. Supplied with Public Safety PASS Cover, Softcase, Operator's Guide and <b>(5) five year limited warranty.</b>	20	\$1,995.00	\$1,197.00	\$23,940.00	*
21	8000-0807-01	<b>Type 123 Lithium Batteries</b> , quantity of ten (10) with storage sleeve	40	\$75.00	\$52.50	\$2,100.00	*
22	8900-0400	<i>CPR stat*padz</i> HVP Multi-Function CPR Electrodes - 8 pair/case	5	\$560.00	\$392.00	\$1,960.00	*

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**Page 4 Subtotal \$2,698,165.05**

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**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)

Tel: 520-837-4137

**QUOTATION 249563 V:1**

DATE: July 19, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
23	8900-0810-01	<b>pedi-padz® II Pediatric Multi-Function Electrodes</b> - Designed for use with the AED Plus. The AED recognizes when pedi-padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. One pair.	40	\$95.00	\$66.50	\$2,660.00 *
24	8008-0050-01	<b>AED Plus Trainer2 Unit.</b> The AED Plus Trainer2 can be used by trainers to train users of the AED Plus. Supplied with wireless Remote Controller, one set of <b>CPR-D</b> training electrodes, one pair of replacement gels, 4 D-Cell batteries, 2 AA batteries, Operators Guide, and a (6) six month limited warranty.	3	\$379.00	No Charge	No Charge *
25	7800-0214	<b>MRX Biphasic w/Pacing, 12 lead + 3 parameters Trade-In-</b> Trade-in value is subject to change after initial purchase.	55		(\$8,534.00)	(\$469,370.00) **
26	7800-0227	<b>Phillips FR3 Trade-In</b>	56		(\$100.00)	(\$5,600.00) **

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**Page 5 Subtotal \$2,225,855.05**

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Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 249563 V:1**

DATE: July 19, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<p>**Trade-In Value valid if all equipment purchased is in good operational and cosmetic condition, and includes all standard accessories. Customer assumes responsibility for shipping trade-in equipment to ZOLL Chelmsford within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.</p> <p>*Reflects Discount Pricing.</p> <p>This quotation has been quoted with payment terms of NET 30. For financing options, please refer to item 30 on the Method of Approach response document.</p> <p>No Charge Items and Trade Values are only valid for the initial purchase with the City of Tucson for all items within this quotation.</p> <p>Upon the return of 75 multi function cables and 75 CPR connectors included in the shipment of line one, ZOLL Medical Corporation will issue a credit of \$11,500.00 on the City of Tucson Fire's account for future purchases.</p>				

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**TOTAL \$2,225,855.05**

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Barry Herbert  
 Territory Manager  
 480-689-9362

## ZOLL QUOTATION GENERAL TERMS & CONDITIONS

**1. ACCEPTANCE.** This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract") the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

**2. DELIVERY AND RISK OF LOSS.** Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

**3. TERMS OF PAYMENT.** Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

**4. CREDIT APPROVAL.** All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

**5. TAXES & FEES.** The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

**6. WARRANTY.** (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**7. SOFTWARE LICENSE.** (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth, (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein, (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein, (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation, (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer, (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

**8. DELAYS IN DELIVERY.** ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

**9. LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATION'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

**10. PATENT INDEMNITY.** ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

**11. CLAIMS FOR SHORTAGE.** Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

**12. RETURNS AND CANCELLATION.** (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

**13. APPLICABLE LAW.** This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

**14. COMPLIANCE WITH LAWS.** (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

**15. NON-WAIVER OF DEFAULT.** In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

**16. ASSIGNMENT.** This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

**17. TITLE TO PRODUCTS.** Title to right of possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

### 18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.

**VETERAN'S EMPLOYMENT** - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

**EMPLOYMENT OF HANDICAPPED** - If this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

**EQUAL OPPORTUNITY EMPLOYMENT** - If this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth as 41 CFR 60-1.40.

**19. VALIDITY OF QUOTATION.** This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

**20. GENERAL.** Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

### **3. ZOLL's Response to Additional Information to Intent to Negotiate**

**Jenn Myers - RE: City of Tucson, RFP # 171769, Cardiac Monitors**

---

**From:** Jennifer Curran <JCurran@zoll.com>  
**To:** Jenn Myers <Jenn.Myers@tucsonaz.gov>  
**Date:** 8/8/2017 4:57 AM  
**Subject:** RE: City of Tucson, RFP # 171769, Cardiac Monitors  
**Cc:** Mike Borkowski <MBorkowski@zoll.com>, Ryan Grulke <RGrulke@zoll.com>, "A..."  
**Attachments:** Tucson BAA 121013.pdf; Tucson\_InsRequirements\_PJC 8.7.2017 (rvsd).docx

---

Good Morning Jenn,

Please see attached a copy of the current executed BAA with ZOLL Data. I hope it is sufficient for supporting this potential award?

The word document attached is the response from my Director of Risk Management. Her note back to me stated: *"With respect to the Insurance requirements, I believe Tucson was only asking why we felt both Professional and Privacy Liability were not applicable. We have the coverage, so I don't mind leaving it in and made the appropriate change. I didn't see any other comments with respect to Insurance so I left all my other redlines."*

Please advise if this is acceptable?

Also, there is concern regarding the mark up of the EULA and we wanted to see if you and your team are available today at 2:30 EST for a quick conference call with my legal department?

Thanks,

Jen

Jennifer Curran  
Contracts Manager  
[978-421-9185](tel:978-421-9185) Phone  
[603-380-1995](tel:603-380-1995) Cell  
[978-421-0005](tel:978-421-0005) Fax  
[jcurran@zoll.com](mailto:jcurran@zoll.com)

[www.zoll.com](http://www.zoll.com)

*Office Hours: 7:30am – 4:00pm EST*

*An Asahi Kasei Group Company*

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---

**From:** Mike Borkowski  
**Sent:** Friday, August 04, 2017 12:21 AM  
**To:** Jennifer Curran <JCurran@zoll.com>; Patty Comb <PComb@zoll.com>  
**Cc:** Amy Coffin <ACoffin@zoll.com>

**Subject:** FW: City of Tucson, RFP # 171769, Cardiac Monitors  
**Importance:** High

Jen / Patty

Can you please look over the attached letter from the City of Tucson?

--

Kind Regards,  
Mike

Mike Borkowski  
Strategic Account Manager  
ZOLL Medical Corporation  
480-299-8900 Wireless / Text  
[Mborkowski@zoll.com](mailto:Mborkowski@zoll.com)

This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized use or disclosure is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

---

**From:** Jenn Myers [<mailto:Jenn.Myers@tucsonaz.gov>]  
**Sent:** Wednesday, August 02, 2017 8:42 AM  
**To:** Amy Coffin <[ACoffin@zoll.com](mailto:ACoffin@zoll.com)>  
**Cc:** Barry Herbert <[BHerbert@zoll.com](mailto:BHerbert@zoll.com)>; Mike Borkowski <[MBorkowski@zoll.com](mailto:MBorkowski@zoll.com)>; Ryan Grulke <[RGrulke@zoll.com](mailto:RGrulke@zoll.com)>  
**Subject:** City of Tucson, RFP # 171769, Cardiac Monitors

Good morning Amy,

My apologies that it took so long on the City's end. Please see the attached letter regarding the technology pieces that still need to be included. Please let me know if you have any questions.

Thank you,  
Jenn

*Jenn Myers*

Senior Contract Officer  
Department of Procurement  
255 W Alameda, 6th Floor  
Tucson, AZ 85726  
[520-837-4137](tel:520-837-4137)  
[520-791-4735](tel:520-791-4735) Fax



**INSURANCE:**

The Contractor agrees to:

- A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. ~~All policies will contain an endorsement providing that written notice be given to the City at least 30 days prior to termination or cancellation in coverage in any policy, and 10 days notice for cancellation due to non-payment in premium. Contractor will not cancel any of the required coverage without first providing thirty (30) days written notice to the City.~~
- B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured, but only with respect to liability arising directly from ongoing operations performed by the Contractor on behalf of the City out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. With respect to sole negligence of the contractor, the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable

COVERAGE	LIMITS OF LIABILITY
<b>I. Commercial General Liability:</b>	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Project	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
<b>II. Commercial Automobile Liability</b>	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
<b>III. Workers' Compensation (applicable to the State of Arizona)*1</b>	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
<b>V. Professional Liability – Technology Errors &amp; Omissions - In addition to I, II, III</b>	
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000
Such insurance shall cover any, and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract. Coverage shall include or shall not exclude settlement and/or defense of claims involving intellectual property, including but not limited to patent or copyright infringement. In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor	

warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years, beginning at the time work under this Contract is completed.

**Network Security (Cyber) and Privacy Liability – In addition to I, II, III**

Each Claim  
Annual Aggregate

\$1,000,000  
\$2,000,000

Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include loss of use, breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.

In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

\*1 Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

**D. ADDITIONAL INSURANCE REQUIREMENTS:** Policies shall be endorsed to include the following provisions:

1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor (including Worker's Compensation).
2. With respect to sole negligence of the Contractor, the insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
3. ~~Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.~~

**E. NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Contractor to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.

**F. ACCEPTABILITY OF INSURERS:** Contractors insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**G. VERIFICATION OF COVERAGE:** Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department of Procurement.

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

**H. SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

**I. EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance.



**ZOLL Medical Corporation**

Worldwide Headquarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

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FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	601-2221011-01	<p><b>X Series ® Manual Monitor/Defibrillator \$14,995</b>            with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5"( 16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display.</p> <p><b>Accessories Included:</b></p> <ul style="list-style-type: none"> <li>• Six (6) foot 3- Lead ECG cable</li> <li>• MFC cable</li> <li>• MFC CPR connector</li> <li>• A/C power adapter/ battery charger</li> <li>• A/C power cord</li> <li>• One (1) roll printer paper</li> <li>• 6.6 Ah Li-ion battery</li> <li>• Carry case</li> <li>• Declaration of Conformity</li> <li>• Operator's Manual</li> <li>• Quick Reference Guide</li> </ul> <p>• <b>One (1)-year EMS warranty</b></p> <p><b>Advanced Options:</b>  <b>Real CPR Help Expansion Pack \$ 995</b>            CPR Dashboard quantitative depth and rate in real time, release indicator, interruption timer, perfusion performance indicator (PPI)            • See - Thru CPR artifact filtering</p> <p><b>ZOLL Noninvasive Pacing Technology: \$2,550</b></p>	75	\$37,275.00	\$26,092.50	\$1,956,937.50 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 1 Subtotal \$1,956,937.50**

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Barry Herbert  
 Territory Manager  
 480-689-9362



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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<b>Masimo Pulse Oximetry</b>				
		<b>SP02 \$1,795</b> <ul style="list-style-type: none"> <li>• Signal Extraction Technology (SET)</li> <li>• Rainbow SET</li> </ul> <b>NIBP Welch Allyn includes: \$3,495</b> <ul style="list-style-type: none"> <li>• Smartcuff 10 foot Dual Lumen hose</li> <li>• SureBP Reusable Adult Medium Cuff</li> </ul> <b>End Tidal Carbon Dioxide monitoring (ETCO2)</b> <b>Oridion Microstream Technology: \$4,995</b> Order required Microstream tubing sets separately  <b>Interpretative 12- Lead ECG: \$8,450</b> <ul style="list-style-type: none"> <li>• 12-Lead one step ECG cable- includes 4- Lead limb lead cable and removable precordial 6- Lead set</li> </ul>				
2	8000-0330	SpO2 Rainbow Reusable Patient Cable: Connects to LNCS Single Use and Reusable Sensors (4 ft)	150	\$295.00	\$206.50	\$30,975.00 *
3	8000-0294	SpO2 LNCS Adult Reusable Sensor (1 each)	150	\$295.00	\$206.50	\$30,975.00 *
4	8000-0580-01	Six hour rechargeable Smart battery	150	\$495.00	\$346.50	\$51,975.00 *
5	8300-0500-01	SurePower 4 Bay Charging System including 4 Battery Charging adapters	30	\$2,583.00	\$1,808.10	\$54,243.00 *

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**Page 2 Subtotal \$2,125,105.50**

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email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)

Tel: 520-837-4137

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FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
6	8300-0002-02	Dual Lumen NIBP Hose, 5 Ft.- These no charge cables are to replace the 10 Ft. hoses that come standard with line 1.	75	\$125.00	No Charge	No Charge *
7	8300-0002-02	Dual Lumen NIBP Hose, 5 Ft.	75	\$125.00	\$87.50	\$6,562.50 *
8	REUSE-11-2MQ	Adult Cuff, 2-Tube, Twist lock connector	75	\$52.50	\$36.75	\$2,756.25 *
9	8300-0802-01	12-Lead one step ECG cable - AAMI includes 4-Lead trunk cable and removable precordial 6 lead set.	75	\$325.00	\$227.50	\$17,062.50 *
10	8000-000472-01	Multi-Tech Cell Modem Kit, CDMA, Verizon, US	75	\$595.00	\$416.50	\$31,237.50 *
11	8300-0520-01	Filterline Set Adult/Pediatric, Case of 25	16	\$275.00	\$192.50	\$3,080.00 *
12	8300-0524-01	Smart CapnoLine Plus O2 Adult (O2 tubing), Case of 25	16	\$355.00	\$248.50	\$3,976.00 *
13	8000-000901-01	ECG plain white paper- 80mm (pack of 6 rolls)	70	\$24.00	\$16.80	\$1,176.00 *
14	8900-0004	4 ECG electrodes/pouch (120 pouches / 480 electrodes)	4	\$96.00	\$67.20	\$268.80 *

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Page 3 Subtotal **\$2,191,225.05**

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 Territory Manager  
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**QUOTATION 249563 V:1**

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FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
15	8900-0400	CPR stat*padz HVP Multi-Function CPR Electrodes - 8 pair/case	20	\$560.00	\$392.00	\$7,840.00 *
16	8900-000220-01	OneStep Pediatric CPR Electrode (8 per case)	20	\$650.00	\$455.00	\$9,100.00 *
17	8300-000676	OneStep Cable, X Series	150	\$425.00	\$297.50	\$44,625.00 *
18	8009-0020	CPR-D Padz and CPR Stat Padz Connector for R Series	150	\$375.00	\$262.50	\$39,375.00 *
19	8778-200044	4 yrs Extended warranty, 1 PM per year, Battery replacement	75	\$5,570.00	\$5,040.00	\$378,000.00 *
20	20100000101011010	AED Plus with Graphical Cover. Includes: LCD screen showing voice prompt messages, device advisory messages, elapsed time, shock count and chest compression bar. Supplied with Public Safety PASS Cover, Softcase, Operator's Guide and (5) five year limited warranty.	20	\$1,995.00	\$1,197.00	\$23,940.00 *
21	8000-0807-01	Type 123 Lithium Batteries, quantity of ten (10) with storage sleeve	40	\$75.00	\$52.50	\$2,100.00 *
22	8900-0400	CPR stat*padz HVP Multi-Function CPR Electrodes - 8 pair/case	5	\$560.00	\$392.00	\$1,960.00 *

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Page 4 Subtotal **\$2,698,165.05**

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**QUOTATION 249563 V:1**

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FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
23	8900-0810-01	<b>pedi•padz® II Pediatric Multi-Function Electrodes</b> - Designed for use with the AED Plus. The AED recognizes when pedi•padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. <b>One pair.</b>	40	\$95.00	\$66.50	\$2,660.00 *
24	8008-0050-01	<b>AED Plus Trainer2 Unit.</b> The AED Plus Trainer2 can be used by trainers to train users of the AED Plus. Supplied with wireless Remote Controller, one set of <b>CPR-D</b> training electrodes, one pair of replacement gels, 4 D-Cell batteries, 2 AA batteries, Operators Guide, and a (6) six month limited warranty.	3	\$379.00	No Charge	No Charge *
25	7800-0214	<b>MRX Biphasic w/Pacing, 12 lead + 3 parameters Trade-In-</b> Trade-in value is subject to change after initial purchase.	55		(\$8,534.00)	(\$469,370.00) **
26	7800-0227	<b>Phillips FR3 Trade-In</b>	56		(\$100.00)	(\$5,600.00) **

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**Page 5 Subtotal**

**\$2,225,855.05**

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FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<p>**Trade-In Value valid if all equipment purchased is in good operational and cosmetic condition, and includes all standard accessories. Customer assumes responsibility for shipping trade-in equipment to ZOLL Chelmsford within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.</p> <p>*Reflects Discount Pricing.</p> <p>This quotation has been quoted with payment terms of NET 30. For financing options, please refer to Item 30 on the Method of Approach response document.</p> <p>No Charge Items and Trade Values are only valid for the initial purchase with the City of Tucson for all items within this quotation.</p> <p>Upon the return of 75 multi function cables and 75 CPR connectors included in the shipment of line one, ZOLL Medical Corporation will issue a credit of \$11,500.00 on the City of Tucson Fire's account for future purchases.</p>				

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**TOTAL \$2,225,855.05**

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## ZOLL QUOTATION GENERAL TERMS & CONDITIONS

**1. ACCEPTANCE.** This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract") the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

**2. DELIVERY AND RISK OF LOSS.** Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

**3. TERMS OF PAYMENT.** Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

**4. CREDIT APPROVAL.** All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

**5. TAXES & FEES.** The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

**6. WARRANTY.** (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. **THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

**7. SOFTWARE LICENSE.** (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth. (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein. (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein. (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation. (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer. (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This license applies only to ZOLL Medical Corporation Software.

**8. DELAYS IN DELIVERY.** ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

**9. LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATION'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

**10. PATENT INDEMNITY.** ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

**11. CLAIMS FOR SHORTAGE.** Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

**12. RETURNS AND CANCELLATION.** (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

**13. APPLICABLE LAW.** This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

**14. COMPLIANCE WITH LAWS.** (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

**15. NON-WAIVER OF DEFAULT.** In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

**16. ASSIGNMENT.** This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

**17. TITLE TO PRODUCTS.** Title to right of possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

**18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.**

**VETERAN'S EMPLOYMENT** - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

**EMPLOYMENT OF HANDICAPPED** - If this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

**EQUAL OPPORTUNITY EMPLOYMENT** - If this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth as 41 CFR 60-1.40.

**19. VALIDITY OF QUOTATION.** This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

**20. GENERAL.** Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

**Jenn Myers - RE: City of Tucson, RFP # 171769, Cardiac Monitors**

---

**From:** Jennifer Curran <JCurran@zoll.com>  
**To:** Jenn Myers <Jenn.Myers@tucsonaz.gov>  
**Date:** 8/11/2017 6:13 AM  
**Subject:** RE: City of Tucson, RFP # 171769, Cardiac Monitors  
**Cc:** Ryan Grulke <RGrulke@zoll.com>, Mike Borkowski <MBorkowski@zoll.com>, "A..."

---

Hi Jenn,

I wanted to get the answers we have back to you. I only have the third party question remaining & will send you that response ASAP.

Please let me know if you have any questions or if we missed anything.

1. What is uptime?
  - 99.9%
2. What are the standard maintenance windows?
  - Every third month we have a 15 minute window of downtime.
3. What warranty applies to the site content?
  - No warranty applies. That is consistent with common practice for free technology.
4. Are there any associated third party products?
  - TBD
5. Which vendor is hosting the data?
  - Zayo

Thanks,

Jen

Jennifer Curran

Contracts Manager

978-421-9185 Phone

603-380-1995 Cell

978-421-0005 Fax

jcurran@zoll.com

www.zoll.com

*Office Hours: 7:30am – 4:00pm EST*

*An Asahi Kasei Group Company*

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---

**From:** Jenn Myers [Jenn.Myers@tucsonaz.gov]  
**Sent:** Thursday, August 10, 2017 6:32 PM  
**To:** Jennifer Curran <JCurran@zoll.com>  
**Subject:** RE: City of Tucson, RFP # 171769, Cardiac Monitors

Hi Jennifer,

Do you know if you were able to obtain the information about the system that your lawyer was going to obtain after the call?

Thank you,  
Jenn

*Jenn Myers*

Senior Contract Officer

Department of Procurement

255 W Alameda, 6th Floor

Tucson, AZ 85726

520-837-4137

520-791-4735 Fax

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**Sent:** Wednesday, August 09, 2017 6:25 PM  
**To:** Jennifer Curran <[JCurran@zoll.com](mailto:JCurran@zoll.com)>  
**Subject:** RE: City of Tucson, RFP # 171769, Cardiac Monitors

Hello Jennifer,

We are hoping to have a final contract awarded and a P.O. by 9/1 if that helps!

Thanks,  
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Hi Jenn,

I was mistaken with the 2 week lead-time. Sorry about that. Can you provide the "need by" date so I can get with production to find out what we can do?

Thanks,  
Jen

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**Sent:** Wednesday, August 09, 2017 2:11 PM  
**To:** Jennifer Curran <[JCurran@zoll.com](mailto:JCurran@zoll.com)>  
**Subject:** Fwd: City of Tucson, RFP # 171769, Cardiac Monitors

These are the documents Lloyd is referring to.

>>> Jenn Myers 8/2/2017 8:41 AM >>>

Good morning Amy,

My apologies that it took so long on the City's end. Please see the attached letter regarding the technology pieces that still need to be included. Please let me know if you have any questions.

Thank you,  
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**Jenn Myers - RE: City of Tucson, RFP # 171769, Cardiac Monitors**


---

**From:** Jennifer Curran <JCurran@zoll.com>  
**To:** Jenn Myers <Jenn.Myers@tucsonaz.gov>  
**Date:** 8/11/2017 11:09 AM  
**Subject:** RE: City of Tucson, RFP # 171769, Cardiac Monitors  
**Cc:** Amy Coffin <ACoffin@zoll.com>, Mike Borkowski <MBorkowski@zoll.com>, "Ry..."

---

Hi Jenn,

Here a list of 3<sup>rd</sup> party products used to support 12-Lead

Vendor	Products/Purpose
Alchemy	Security Monitoring
Alertsite	Alertsite - Site Status
Alien Vault	Security log collection
AppDynamics	Application Performance Monitoring
Avamar	VM Backups
Cisco	Firewall
DataStax - Cassandra Support	Cassandra Database
e-Fax	Faxing
F5	F5 - Load balancing
Microsoft	SQL, IIS, .Net
Palo Alto	Palo Alto Firewalls
PRTG	System monitoring
Riverbed	Load balancing
SunGard	Data Center IP relay for E-series 12 Leads
Symantec	Virus Control
VMWare	Virtualization platform
Zayo	Data Center IaaS provider

In addition to the above list used to support the operation of 12-Lead, the web application itself uses locomp plot controls, Microdoc and PDFSharp pdf generation utilities and Microsoft Report Viewer controls for report rendering/navigation.

Let us know if you need anything further.

Thanks,  
 Jen

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**From:** Jenn Myers [[Jenn.Myers@tucsonaz.gov](mailto:Jenn.Myers@tucsonaz.gov)]

**Sent:** Friday, August 11, 2017 10:24 AM

**To:** Jennifer Curran <[JCurran@zoll.com](mailto:JCurran@zoll.com)>

**Cc:** Amy Coffin <[ACoffin@zoll.com](mailto:ACoffin@zoll.com)>; Mike Borkowski <[MBorkowski@zoll.com](mailto:MBorkowski@zoll.com)>; Ryan Grulke <[RGrulke@zoll.com](mailto:RGrulke@zoll.com)>

**Subject:** RE: City of Tucson, RFP # 171769, Cardiac Monitors

Thank you!

*Jenn Myers*

Senior Contract Officer

Department of Procurement

255 W Alameda, 6th Floor

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**4. City of Tucson's Request for Additional  
Information to Intent to Negotiate**



CITY OF  
TUCSON  
DEPARTMENT OF  
PROCUREMENT

August 2, 2017

Amy Coffin  
Bid & Proposals Coordinator  
ZOLL Medical Corporation  
269 Mill Road  
Chelmsford, MA 01824  
[acoffin@zoll.com](mailto:acoffin@zoll.com)

*Sent via electronic mail, this day*

**Subject: Request for Proposal No. 171769 – Cardiac Monitors  
Additional Information to Intent to Negotiate**

Dear Ms. Coffin:

The City of Tucson has completed the evaluation of submittals received in response to the subject solicitation. Based upon the recommendation of the evaluation committee, the City is inviting your firm to enter negotiations. Specifically, the City requests the following:

**1. Special Terms and Conditions: Insurance**

a. The City requires Professional Liability – Technology Errors & Omissions as well as Network Security (Cyber) and Privacy Liability as part of the insurance requirements due to the fact that the City will be utilizing Zoll's web-based software system. Please explain why Zoll feels the requirement will not be applicable.

**2. Zoll EULA**

The City requests that the following revisions be made to the EULA. Please see the attached redlined document.

**3. City of Tucson software rider addendum**

The City requires that the attached software rider addendum will take precedence over the Zoll provided EULA. Please confirm your understanding of this requirement.

**4. City of Tucson Business Associate Agreement**

The City requires that the attached Business Associate Agreement be included in the contract. Please indicate specific uses of PHI, if any, in Section A. Allowable Uses of PHI of the referenced agreement.

This Notice of Intent to Negotiate is not an intent to award a contract and does not establish a contractual relationship between the firm and the City. In the event that the City is not able to negotiate a satisfactory contract with the firm, the City will terminate negotiations. Please submit a written response to my attention via e-mail to [Jenn.myers@tucsonaz.gov](mailto:Jenn.myers@tucsonaz.gov) as soon as possible. Please contact me via e-mail or at (520) 837-4137 with questions regarding the items above.

Sincerely,

Jenn Myers  
Senior Contract Officer

ADMINISTRATION • DESIGN AND CONSTRUCTION SERVICES • GOODS AND SERVICES  
MAIL SERVICES • S.A.M.M. (SURPLUS AUCTION MATERIALS MANAGEMENT)  
CITY HALL • 255 W. ALAMEDA • P.O. BOX 27210 • TUCSON, AZ 85726-7210  
(520) 791-4217 • FAX (520) 791-4735 • TTY (520) 791-2639  
[www.tucsonprocurement.com](http://www.tucsonprocurement.com)

**INSURANCE:**

The Contractor agrees to:

- A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least 30 days prior to termination or cancellation in coverage in any policy, and 10 days notice for cancellation due to non-payment in premium.
- B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. The insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable

COVERAGE	LIMITS OF LIABILITY
<b>I. Commercial General Liability:</b>	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Project	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
<b>II. Commercial Automobile Liability</b>	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
<b>III. Workers' Compensation (applicable to the State of Arizona)*<sup>1</sup></b>	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
<b>V. Professional Liability – Technology Errors &amp; Omissions - In addition to I, II, III</b>	
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

\*<sup>1</sup> Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

- D. **ADDITIONAL INSURANCE REQUIREMENTS:** Policies shall be endorsed to include the following provisions:
  - 1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor (including Worker's Compensation).

2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
  3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- E. NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Contractor to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.
- F. ACCEPTABILITY OF INSURERS:** Contractors insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- G. VERIFICATION OF COVERAGE:** Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department of Procurement.

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- H. SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- I. EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance.

ZOLL Online Terms of Service  
ZOLL Online Terms of Use

Last updated on 9/8/2014

ZOLL Data Systems, Inc. ("ZOLL," "we," "us," or "our") provides you with access to the website <http://www.zollonline.com> and other features, applications, emails, content, presentations, downloads, surveys, reviews, newsletters, panels, communities and/or other devices, products or services (collectively, the "Site") subject to the following Terms of Use. Please read the following Terms of Use carefully before using the Site. By accessing or using the Site, you agree to these Terms of Use.

~~We may, from time to time, modify or change the Terms of Use. Any revised version of the Terms of Use will be posted on our Site and will govern your future use of the Site. Please review these Terms of Use periodically.~~

#### 1. INTELLECTUAL PROPERTY

The Site and its related content and services and any derivative works or enhancements of the same (collectively, "Site Content") and all intellectual property rights to the same are owned by us or our licensors. All trademarks, service marks, trade names and trade dress that may appear on the Site are owned by us or our licensors. Except for the limited use rights granted in these Terms of Use, you shall not acquire any right, title or interest in the Site or any Site Content. Any rights not expressly granted in these Terms of Use are expressly reserved.

#### 2. ACCESS OR USE OF THE SITE

(a) Use of the Site and certain Site Content requires you to be 18 years of age or older.

(b) Whenever you submit information to us, you agree to provide true, accurate and complete information.

(c) Accounts or Registration. We may impose restrictions on your ability to establish an account or register for certain activities (e.g., age limits, limitations on the number of accounts, etc.).

When registering an account, you may need to select a username ("ID") and password. You are responsible for keeping your ID and password, and other account information, confidential and are fully responsible for all activities that occur under your account, whether or not you authorized such activities. You agree to notify us immediately of any breach of security or unauthorized use of your account or ID and password.

#### 3. LIMITATION, SUSPENSION OR TERMINATION

~~(a) We may, with agreement by Customer in our sole discretion, temporarily or permanently change, limit, suspend or terminate your access to the Site (including any Site Content or User Content), without prior notice. We may do so based on changes to our business practices (e.g., eliminating a service, etc.), if you violate the letter or spirit of these Terms of Use, or for any other lawful reason. You agree that we are not liable to you or any third party for any such action.~~

(b) Any limitation, suspension or termination we impose shall not alter your obligations to us under these Terms of Use. The provisions of these Terms of Use which by their nature should survive any such action on our part shall survive.

#### 4. ACCEPTABLE USE

(a) The Site (including, without limitation, Site Content and User Content) is provided for your information and limited use. When using the Site, you agree to comply with these Terms of Use, and all applicable international, federal, state and local laws.

(b) Except as expressly permitted by these Terms of Use, you may not:

- use the Site in an unlawful or fraudulent manner or for such purposes, to collect personally identifiable information, or to impersonate other users;
- modify our copyright/trademark or other proprietary rights notices, or interfere with the security-related features of the Site (e.g., those that prevent or restrict copying Site Content);
- use the Site in any way to knowingly manipulate or distort, or knowingly undermine the integrity and accuracy of data, or knowingly take any action to interfere with, damage or disrupt any part of the Site;
- use the Site to send, knowingly receive, upload/post or download, any material which does not comply with our content standards;
- use the Site to transmit or facilitate the transmission of any unsolicited or unauthorized advertising or promotional material;
- use the Site to knowingly transmit any data, or upload to the Site any data, that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware;
- decompile, reverse engineer or disassemble any portion of the Site;
- use any robot, spider, other automatic device or manual process to monitor or copy our web pages or Site Content, or use network-monitoring software to determine architecture of or extract usage data from the Site; or
- engage in any conduct that restricts or inhibits any other user from using or enjoying the Site.

(c) You agree to fully cooperate with us to investigate any suspected or actual activity that is in breach of these Terms of Use.

#### 5. USER CONTENT

(a) We may now or in the future permit you to post, upload, transmit through or otherwise provide through the Site (collectively, "submit") messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information (e.g., your name, e-mail address, etc.) and other content (collectively "User Content").

(b) Standards. You agree not to knowingly submit any User Content protected by copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right without the express permission of the owner of the respective right. You are solely liable for any damage resulting from your failure to obtain such permission or from any other harm resulting from your User Content. You also represent and warrant that your User Content:

- will comply with all applicable laws;
- will be truthful, non-misleading and non-deceptive;
- will not contain any material which is tortious (e.g., defames or invades the privacy of any person, etc.), obscene, offensive, hateful or inflammatory;
- will not promote sexually explicit material or violence, or promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- does not breach any legal duty you owe to a third party, such as a contractual duty or a duty of confidence;
- will not be threatening, abuse or invade another's privacy, or provided with an intent to harass, upset or embarrass any other person;

- will not be provided with an intent to impersonate any person, to misrepresent your identity or affiliation with any person, or to falsely give the impression that your User Content comes from someone else; or

- will not advocate, promote or assist any unlawful act (e.g., criminal acts, copyright infringement, computer misuse, etc.).

(c) We may monitor, edit or remove any User Content for violation of the letter or spirit of these terms, or for any other lawful reason. However, we have no obligation to look for, edit or remove any User Content for any reason including, without limitation, violation of these terms.

(d) Grant of Rights & Use. We do not claim ownership to your User Content. However, by submitting User Content, you automatically grant, or warrant that the owner has expressly granted, to us a worldwide, royalty-free, perpetual, irrevocable, non-exclusive, fully sublicenseable and transferable right and license to use, reproduce, distribute, create derivative works based upon (e.g., translations, etc.), publicly display/perform, transmit and publish the User Content (in whole or in part) as we, in our sole discretion, deem appropriate in connection with our business and operations. Notwithstanding the foregoing, you waive any and all claims you may now or later have in any jurisdiction to so-called "moral rights" or rights of "droit moral" with respect to the User Content.

By submitting User Content, you also grant us the right, but not the obligation, to use your biographical or other information about you including, without limitation, all or some of your name, alias, nickname and geographical location in connection with your User Content consistent with the license granted in the previous paragraph but subject to our Online Privacy Statement.

#### 6. RELIANCE ON SITE INFORMATION

(a) While we make efforts to ensure that information provided by us is accurate, we do not represent or warrant that any User Content or Site Content is accurate, complete or current. In all instances, it is your responsibility to evaluate the accuracy, timeliness, completeness, or usefulness of Site Content, User Content, and other information and opinions expressed through the Site.

(b) If there is a dispute between you and anyone you have granted permission to accessing the Site, or you and any third party in connection with the Site, you understand and agree that we are under no obligation to become involved. In such instances, you hereby release ZOLL and its officers, directors, employees, parents, partners, successors, agents, affiliates, subsidiaries and their related companies from claims, demands and damages of every kind or nature arising out of, relating to or in any way connected with such dispute.

#### 7. THIRD PARTIES

(a) Your dealings with third parties via the Site, including third party websites accessed via links on the Site, are solely between you and that third party. As such, when you engage in a transaction with a third party or access a third party's website, you do so under their terms and policies, not ours. Complaints, questions and claims related to transactions with any third party should be directed to that third party.

(b) WE MAKE NO WARRANTIES REGARDING AND SHALL NOT BE LIABLE OR RESPONSIBLE TO YOU (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR YOUR USE OF, THE QUALITY OR LATE DELIVERY OF THE GOODS OR SERVICES FROM ANY THIRD PARTY OR FOR HONORING (OR TO CAUSE ANY MERCHANT TO HONOR) ANY ERRONEOUS INFORMATION REGARDING THE PRICE, DESCRIPTION AND AVAILABILITY OF, OR ANY DISCOUNTS, OFFERS, PROMOTIONS AND

Comment [LW1]: What are these? Can these be turned off?

COUPONS RELATING TO ANY PRODUCT OR SERVICE OFFERINGS PROMOTED OR AVAILABLE THROUGH THE SITE.

~~8. LIMITS ON OUR LIABILITY~~

~~(a) UNDER NO CIRCUMSTANCES SHALL ZOLL OR ITS OFFICERS, DIRECTORS, EMPLOYEES, PARTNERS, SUCCESSORS, AGENTS, DISTRIBUTION PARTNERS, AFFILIATES, SUBSIDIARIES OR THEIR RELATED COMPANIES BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF ZOLL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH THE SITE OR THESE TERMS OF USE. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THE SITE INCLUDING, WITHOUT LIMITATION, ZOLL CONTENT IS TO STOP USING THE SITE. THIS LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF SERVICES OR PRODUCTS, INFORMATION, ADVICE, INFORMATION OR ADVERTISING RECEIVED THROUGH OR IN CONNECTION WITH THE SITE OR ANY LINKS PROVIDED VIA EITHER. THESE LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.~~

~~(b) YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH THE SITE OR THESE TERMS OF USE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. CAUSES OF ACTION BROUGHT OUTSIDE THIS TIME PERIOD ARE WAIVED.~~

~~(c) In some jurisdictions, limitations of liability are not permitted and, therefore, some of the above limits may not apply in all instances.~~

~~9. DISCLAIMER OF WARRANTIES~~

~~(a) TO THE FULL EXTENT PERMITTED BY LAW, THE SITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SITE ARE PROVIDED BY ZOLL ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ARE NOT WARRANTED TO BE, AMONG OTHER THINGS, FREE OF COMPUTER VIRUSES. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SITE IS AT YOUR OWN RISK. ZOLL MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF ITS SITE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON ITS SITE OR OTHERWISE MADE AVAILABLE TO YOU THROUGH ITS SERVICES.~~

~~(b) Certain state laws do not allow limitations on implied warranties. If these laws apply to you, some or all of the above disclaimers, exclusions or limitations may not apply to you, and you might have additional rights.~~

~~10. INDEMNIFICATION~~

~~You agree to defend, indemnify and hold harmless ZOLL and its officers, directors, employees, partners, successors, agents, distribution partners, affiliates, subsidiaries and their related companies from and against any and all claims, liabilities, losses, damages, obligations, costs and expenses (including reasonable attorneys' fees and costs) arising out of or related to: (i) your access to or use of the Site; (ii) your User Content; (iii) any actual or alleged violation or breach by you of these Terms of Use; (iv) any actual or alleged breach of any representation, warranty or covenant that you have made to us; or (v) your acts or omissions. You agree to cooperate fully with us in the defense of any claim that is the subject of your obligations hereunder.~~

~~11. GOVERNING LAW~~

~~These Terms of Use shall be construed in accordance with the laws of the State of Colorado without regard to its conflict of laws rules. You consent to jurisdiction in the State of Colorado.~~

## 12. AMENDMENT; ADDITIONAL TERMS

(a) We may update the Site to provide better options and features, or for other reasons. In certain instances it may be necessary to update or modify our Terms of Use. We also may, in some instances, need to provide you with operating rules or additional terms that govern your use of parts of the Site ("Additional Terms"). Accordingly, you agree that we may at any time provide you with Additional Terms, or update or modify these Terms of Use, as appropriate or necessary. To the extent any Additional Terms conflict with these Terms of Use, the Additional Terms will control but only after Customer and Zoll execute a written amendment to this EULA.

~~(b) Modifications to these Terms of Use or any Additional Terms will be effective upon executing a written amendment to this EULA. : (a) notice, either by posting on the Site or by other proper notification; and (b) your subsequent use of the Site. It is your responsibility to review the Terms of Use and the Site from time to time for any changes or Additional Terms. Your access and continued use of the Site following any modification of these Terms of Use or the provision of Additional Terms will signify your assent to and acceptance of the same. If you object to any revision to the Terms of Use or to any Additional Terms, immediately discontinue use of the Site.~~

## 13. OTHER TERMS

(a) No waiver by either of us of any breach or default under these Terms of Use shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used in these Terms of Use are for convenience only and shall not be given any legal import.

(b) Except where specifically stated otherwise, if any part of these Terms of Use are deemed unlawful or unenforceable for any reason, we both agree that only that part of the Terms of Use shall be stricken and that the remaining terms in the Terms of Use shall not be affected and shall remain in force and effect.

~~(c) Customer nor Zoll You may not assign these Terms of Use or assign any rights or delegate any obligations hereunder, in whole or in part, without other parties our prior written consent.~~

(d) These Terms of Use (including the Online Privacy Statement and any Additional Terms incorporated by reference) constitute the entire agreement, and supersede all previous written or oral agreements, between you and ZOLL in connection with the Site.

ZOLL Application Service Provider and Business Associate Agreements  
ZOLL Online Application Service Provider Agreement

IMPORTANT-READ CAREFULLY. This Application Service Agreement ("Agreement") is a legal Agreement between you ("Customer") and ZOLL Data Systems, Inc., at 11802 Ridge Parkway, Suite 400, Broomfield, CO 80021 ("ZOLL") for ASP Services, associated media, and Instructions. ~~BY CLICKING THE "ACCEPT" BUTTON OR USING THE ASP SERVICES, CUSTOMER IS STATING THAT IT HAS READ AND UNDERSTANDS ALL OF THE TERMS AND CONDITIONS OF THIS ASP AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS, WITHOUT LIMITATION OR QUALIFICATION. IF CUSTOMER DOES NOT AGREE TO THESE TERMS, CUSTOMER WILL NOT ACCESS OR USE THE SERVICES.~~

In addition, ZOLL may amend this Agreement (including the exhibits hereto) or any additional terms that apply to an ASP Service or the ZOLL Site ~~at any time by executing a written amendment with Customer. Customer should review the most current form of this Agreement regularly. ZOLL will post the most current form at <https://www.zollonline.com/Account/TermsOfService>. ZOLL will endeavor to, but is not required to, notify Customer of any amendments. Amendments will not apply retroactively and will become effective no sooner than thirty (30) days after they are posted. However, changes addressing new functions for an ASP Service or changes made for legal reasons will be effective immediately. Customer understands and acknowledges that its continued use of the ASP Services constitutes its agreement to and acceptance of all such amendments and that absent such effective consent, use of the ASP Services is not authorized.~~

## Terms and Conditions

### 1. Definitions.

- 1.1. "ASP Services" means the services described on the ZOLL Site that Customer has chosen to receive by following the procedures indicated on the ZOLL Site.
- 1.2. "BAA" means the Business Associate Addendum attached hereto as Exhibit A.
- 1.3. "Confidential Information" means all trade secrets, business and financial information, computer software, machine and operator instructions, business methods, procedures, know-how, and other information that relates to the business or technology of either party and is marked or identified as confidential, ~~or disclosed in circumstances that would lead a reasonable person to believe such information is confidential.~~ The Software and Instructions shall be considered ZOLL's Confidential Information, notwithstanding any failure to mark or identify it as such.
- 1.4. "Fee Based Services" means the ASP Services for which ZOLL charges Customer a fee.
- 1.5. "Instructions" means the instructions for use of the ASP Services and the documentation and users manuals from time to time provided by ZOLL on the ZOLL Site.
- 1.6. "Intellectual Property Rights" means any and all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.
- 1.7. "Software" means the ZOLL software and the ZOLL licensors' and/or suppliers' software that underlies the ASP Services provided to Customer, as modified, updated, and enhanced.

1.8. "ZOLL Site" means the web site located at a unique URL to be provided by ZOLL to Customer where end users may download the Software and access and use the ASP Services.

## 2. ASP Services; Payment Obligation.

2.1. Provision of ASP Services by ZOLL. Subject to the terms and conditions of this Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer through the ZOLL Site over normal network connections, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling its users and protection of its passwords. The BAA shall apply to the ASP Services.

2.2. Support and Maintenance. ZOLL will provide telephone support services during ZOLL's regular business hours for ASP Services questions.

2.3. Payment Obligation.. Fee Based Services provided to Customer will require payment of a monthly fee. Customer will be notified of fees and terms of use and payment when Customer first accesses a Fee Based Service. Customer will be required to enter credit card information or other form of payment information before accessing any Fee Based Service.

**Comment [LW2]:** ZOLL must disclose this information and include in this contract.

## 3. License Grant; Restrictions; Ownership.

3.1. License Grant. Subject to the terms and conditions of this Agreement ZOLL grants to Customer, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable license to access and use the ASP Services using the Software, each as made available to Customer through the ZOLL Site, solely for Customer's internal business purposes and solely in accordance with the Instructions.

3.2. Restrictions. Customer shall not, and shall not permit any Customer third party to: (a) modify, adapt, alter, translate, or create derivative works from the ASP Services, the Software or the Instructions; (b) allow any third party access to or use of the ASP Services; (c) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the source code for the Software; or (d) otherwise use or copy the Software or the Instructions or the ASP Services in any manner not expressly permitted.

3.3. Ownership. The Software, the Instructions, the ASP Services, all proprietary technology utilized by ZOLL to perform its obligations under this Agreement, and all Intellectual Property Rights in and to the foregoing, are the exclusive property of ZOLL (or as the case may be its licensors and suppliers). Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

## 4. Customer Content.

As between ZOLL and Customer, and without limiting the rights (if any) of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services ("Customer Content"), provided, however, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

## 5. Warranty Disclaimers.

~~THE ASP SERVICES ARE PROVIDED "AS IS". WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY; ZOLL DOES NOT PROMISE THAT THE ASP SERVICES WILL BE AVAILABLE FOR ANY PERIOD AND ZOLL MAKES NO UP-TIME COMMITMENT. ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. CUSTOMER ACKNOWLEDGES THAT IT~~

HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS.

5.1. CUSTOMER ACKNOWLEDGES AND AGREES THAT, IN ENTERING INTO THIS CONTRACT, IT HAS NOT RELIED UPON THE FUTURE AVAILABILITY OF ANY NEW OR ENHANCED FEATURE OR FUNCTIONALITY, OR ANY NEW OR ENHANCED PRODUCT OR SERVICE, INCLUDING WITHOUT LIMITATION, UPDATES TO ZOLL'S EXISTING PRODUCTS AND SERVICES. ZOLL'S PERFORMANCE OBLIGATIONS HEREUNDER ARE LIMITED TO THOSE EXPRESSLY ENUMERATED HEREIN, AND PAYMENT FOR ZOLL'S PERFORMANCE OBLIGATIONS SHALL BE DUE AS DESCRIBED HEREIN.

#### 6. Limitation of Liability.

In no event will ZOLL be liable for any consequential, indirect, exemplary, special, or incidental damages, OR for any lost data, lost profits OR costs of procurement of substitute goods or services, arising from or relating to this Agreement, however caused and under any theory of liability (including negligence), even if ZOLL has been advised of the possibility of such damages. ZOLL's total cumulative liability in connection with this Agreement and the Software, whether in contract or tort or otherwise, will not exceed the amount paid TO ZOLL BY CUSTOMER FOR the ASP SERVICES provided UNDER THIS AGREEMENT IN THE PREVIOUS SIX (6) MONTH PERIOD. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability, and Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers.

#### 7. Term and Termination.

7.1. Term. The term of this Agreement ("Term") will begin on the date these terms are accepted by Customer and continue until terminated.

7.2. Termination. Either party may terminate this Agreement with or without cause on 30 thirty 20 days' prior written notice to the other.

7.3. Effects of Termination. Upon expiration or termination of this Agreement for any reason: (a) amounts, if any, owed to ZOLL under this Agreement before such termination or expiration will be immediately due and payable, (b) all licensed rights granted in this Agreement will immediately cease to exist; and (c) Customer must promptly discontinue all use of the ASP Services and return or destroy, all copies of the Instructions and/ Software in Customer's possession or control. Customer shall receive a refund for pre-paid amounts beyond the effective date of the Termination.

#### 8. Confidentiality.

8.1. Protection. Subject to Section 4 hereof, the party receiving Confidential Information ("Receiving Party") from the other party ("Disclosing Party") will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the

Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

8.2. Exceptions. The Receiving Party's obligations under Section 8.1 above with respect to any Confidential Information of the Disclosing Party will terminate if and when the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) approved in writing by the Disclosing Party, (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure in writing prior to making such disclosure and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

Notwithstanding the above, the City is required to comply with Chapter 28, Section 28-5 of the Tucson Procurement Code regarding confidential information.

Sec. 28-5. Confidential information.

Confidential information shall be designated as follows:

Sec. 28-5(1). If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld from public record, a statement advising the contract officer of this fact should accompany the submission and the information shall be so identified wherever it appears.

Sec. 28-5(2). The information identified by the person as confidential may not be disclosed until the contract officer makes a written determination.

Sec. 28-5(3). The contract officer shall review the statement and information and may determine in writing that the information shall be withheld or disclosed.

Sec. 28-5(4). If the contract officer determines to disclose the information, the contract officer shall inform the person in writing of such determination.

Sec. 28-5(5). Notwithstanding the above provisions, in the event records marked as confidential are requested for public release, the city shall release records marked confidential ten (10) working days after the date of notice to the person of the request for release, unless the person has, within the ten (10) day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records.

Sec. 28-5(6). The city shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked confidential. Nor shall the city be in any way financially responsible for any costs associated with securing such an order.

(Ord. No. 10404, § 1, 5-15-07; Ord. No. 11296, § 1, 8-5-15)

9. Indemnification.

Customer shall indemnify, defend and hold ZOLL harmless of, from and against any and all liabilities, losses, expenses, damages and claims that arise out of Customer's use of the ASP Services or Customer's breach of this Agreement, except to the extent same are due to ZOLL's breach hereof or ZOLL's negligence.

#### 10. General Provisions.

10.1. Compliance with Laws and Export Regulations. Customer shall comply with all applicable laws and regulations concerning its use of the ASP Services, including without limitation if applicable all export and import control laws and regulations. Customer will not use the ASP Services for any purpose in violation of any applicable laws. Customer agrees to defend, indemnify, and hold harmless ZOLL from and against any violation of any applicable laws or regulations by Customer or any of its agents, officers, directors, or employees.

~~10.2. Compliance Certificate. Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used in accordance with the terms and conditions of this Agreement.~~

10.3. Assignment. ~~Neither party~~ Customer may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party without the other parties ZOLL's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ~~ZOLL shall have the right to assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.~~

~~10.4. U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Instructions are comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and if provided hereunder are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 (JUN 1995) and 227.7202-3 (JUN 1995).~~

10.5. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile (fax), or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth above or in the contact information provided by Customer in connection with accepting the terms of this Agreement, and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner, ~~and provided, however, that ZOLL's~~ amendments of this Agreement shall be deemed delivered to Customer and Customer shall be deemed notified thereof by ZOLL posting the most current form of this Agreement on the website set forth at the beginning of this Agreement as more particularly provided at the beginning of this Agreement.

~~10.6. Governing Law and Venue. This Agreement will be governed by and interpreted in accordance with the laws of the State of Colorado without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement shall be brought in a federal or state court in Denver, Colorado, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.~~

10.7. Remedies. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the ASP Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or

threatened breach hereof due to Customer's actions may constitute immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

10.8. Waivers. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

10.9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect.

10.10. Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

10.11. Entire Agreement. This Agreement, including the cover page (if any) and any exhibits hereto, constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral.

10.12. Third Party Access to ZOLL Site on behalf of Customer. If Customer engages a third-party provider approved by ZOLL ("Third-Party Provider") to provide Customer with data management services using Third-Party Provider's product(s) that are integrated with software products (including Software) and/or equipment of ZOLL and/or ZOLL affiliates (the "Third-Party Services"), Customer agrees to promptly notify ZOLL thereof and Customer hereby consents to ZOLL sharing of Customer Content with such Third-Party Provider for the sole purpose of Third-Party Provider's provision of the Third-Party Services. Customer agrees that if Customer wishes to grant such Third-Party Provider access to the ZOLL Site and/or the ASP Services for the purpose of the provision of the Third-Party Services, Customer shall require Third-Party Provider to comply with the terms of this Agreement, ~~and Customer agrees to indemnify, defend and hold harmless ZOLL from and against any liabilities, losses, expenses, damages and claims arising from Third-Party Provider's access and use of the ZOLL Site and the ASP Services.~~ Upon termination of Customer's agreement with Third-Party Provider for any reason, Customer agrees to immediately terminate Third-Party Provider's access to the ZOLL Site and the ASP Services and notify ZOLL thereof. Customer represents that Customer has a valid Business Associate Agreement with Third-Party Provider in place for the provision of the Third-Party Services and that the sharing by ZOLL of the Customer Content with Third-Party Provider does not violate any agreement, law, regulation, or other legal standard applicable to Customer. In addition, Customer agrees that the provision of the Third-Party Services by Third-Party Provider to Customer does not make Third-Party Provider a subcontractor business associate of ZOLL.

ZOLL Online Business Associate Agreement

Exhibit A

Business Associate Addendum

Comment [LW3]: Replacing with City of Tucson.

This Business Associate Addendum (this "Addendum") is entered into by and between you ("Covered Entity") and ZOLL Data Systems ("Business Associate") in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations collectively referred to as "HIPAA") This Addendum amends the terms and conditions of and is hereby incorporated as part of that certain agreement between Covered Entity and Business Associate entitled Application Service Provider Agreement (the "Services Agreement") and attached hereto.

STATEMENT OF AGREEMENT

§1. Definitions. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HIPAA; provided that PHI shall refer only to protected health information of Covered Entity unless otherwise stated.

§2. Compliance and Agents. Business Associate agrees that to the extent it has access to PHI, Business Associate will fully comply with the requirements of this Addendum with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth in this Addendum. If Covered Entity is required by HIPAA to maintain a Notice of Privacy Practices, Covered Entity shall notify Business Associate of any limitations in such notice to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

§3. Use and Disclosure: Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Addendum, including Section 16 hereof, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Addendum, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Services Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity

shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

~~§4. Safeguards. Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308-164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Addendum.~~

~~§5. Minimum Necessary. Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.~~

~~§6. Report of Improper Use or Disclosure. Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Addendum and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of "unsecured protected health information," as defined in 45 C.F.R. §164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Addendum.~~

~~§7. Individual Access. In accordance with an individual's right to access to their own PHI in a designated record set under 45 CFR §164.524 and the individual's right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual's representative.~~

~~§8. Amendment of and Access to PHI. Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.~~

~~§9. Accounting. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual's request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.~~

~~§10. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to the U.S. Department of Health and Human Services ("DHHS"), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's compliance with HIPAA.~~

~~§11. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate's use or disclosure of PHI.~~

~~§12. Compliance with ARRA. Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the American Recovery and Reinvestment Act of 2009~~

(“ARRA”) (P.L. 111-5), including all privacy and security regulations issued under ARRA that apply to Business Associate as and when those regulations are effective.

§13. Term. This Addendum shall take effect on the effective date of the Services Agreement, and shall continue in effect unless and until either party terminates this Addendum or the Services Agreement.

§14. Breach; Termination; Mitigation. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Addendum, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and if such steps are unsuccessful, Covered Entity may terminate this Addendum. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

§15. Return of PHI. Business Associate agrees that upon termination of this Addendum, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Addendum to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

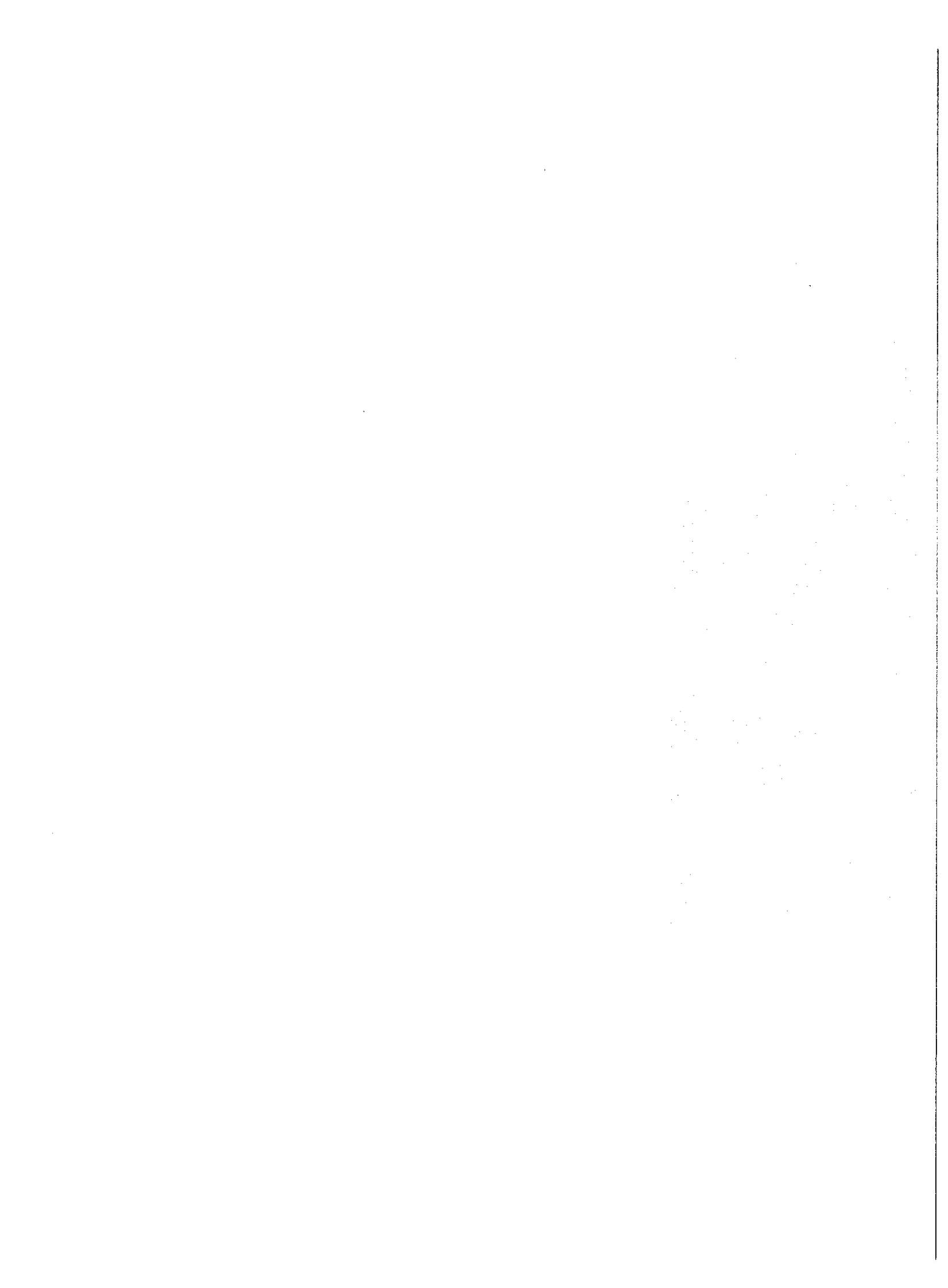
§16. De-identified Health Information. Business Associate may de-identify any and all PHI and may create a “Limited Data Set” in accordance with 45 C.F.R. § 164.514(b)&(e). Customer acknowledges and agrees that deidentified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

§17. Survival. All representations, covenants, and agreements in or under this Addendum or any other documents executed in connection with the transactions contemplated by this Addendum, shall survive the execution, delivery, and performance of this Addendum and such other documents. The respective rights and obligations of Business Associate under Section 14 of this Addendum shall survive termination or expiration of this Addendum.

§18. Further Assurances; Conflicts. Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this Addendum. The terms and conditions of this Addendum will override and control any conflicting term or condition of the Services Agreement. All non-conflicting terms and conditions of the Service Agreement shall remain in full force and effect. Any ambiguity in this Addendum with respect to the Services Agreement shall be resolved in a manner that will permit Covered Entity to comply with HIPAA.

§19. Applicable Law. The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Addendum and may affect the parties' obligations under this Addendum. The parties agree to take such action as is necessary to amend this Addendum from time in order as is necessary for Covered Entity to comply with HIPAA.

§20. Previously Executed BAAs. For avoidance of doubt, with respect to PHI shared under the Services Agreement, this Addendum supersedes and replaces any business associate agreements or addenda previously executed by the parties, notwithstanding any provisions in such previously executed business associated agreements or addenda to the contrary.



LICENSOR: ZOLL  
RESELLER (if any): \_\_\_\_\_  
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The terms and conditions of this addendum (“**Rider**”) supplement the EULA (as defined below) between Zoll, the licensor and provider (“**Licensor**”), and the City of Tucson (including any agency, office or commission), as licensee (“**City**” or “**Licensee**”), and are applicable to any procurement of hosted services from Licensor, including, but not limited to, Software as a Service (SaaS), Platform as a Service (PaaS), Infrastructure as a Service (IaaS) and Software (including Software embedded in Hardware) sold, licensed, transferred or otherwise provided to the City by Licensor or through a third-party reseller (“**Reseller**”). As used in this Rider, “party” refers to Licensor or Licensee (i.e., does not include a Reseller), individually, and “parties” means the Licensor and the Licensee, collectively.

The parties agree as follows:

**1. Additional Definitions**

“**City Data**” means information, databases, data compilations, reports, charts, graphs, diagrams, or other information created, generated or maintained by Licensor for the benefit of the City under the EULA or provided or made accessible by the City to Licensor under the Agreement, including data created solely by the City’s use of the Cloud Product or Software.

“**Cloud Product**” means the software-, platform-, infrastructure- or other “as a service” solution for which access is provided to the Licensee by the Licensor under the EULA.

“**EULA**” means any agreements between Licensor and Licensee that governs Licensee’s use of a Cloud Product or Software purchased under this Agreement.

“**Software**” means is any set of machine-readable instructions provided to the City by or through Licensor that directs a computer’s processor to perform specific operations.

“**Privacy Laws**” means data privacy, trans-border data flow and data protection laws and regulations, including the Gramm-Leach-Bliley Act and its implementing regulations, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, the Health Information Technology for Economic and Clinical Health Act of 2009 and its implementing regulations, and U.S. State and City information security, data destruction and data breach notification laws and their implementing regulations.

“**Service Level Agreement**” means the term setting forth the service levels that Licensor must meet in providing the Cloud Product,

including any credits to be provided for failure to meet the service levels.

**2. Order of Precedence**

This Rider takes precedence over any provision in the EULA or in any separate agreement between the City and Reseller. In the event of a conflict between this Rider and the EULA, the Rider will prevail. Defined terms in the EULA or an agreement between the City and Reseller will be given their ordinary meaning in this Rider.

**3. Term**

3.1 All terms of this Agreement that should by their nature survive termination will survive, including, Sections 11 (Governing Law; Jurisdiction and Venue; Jury Waiver), 13 (City Data), 14 (Security), and 15.2 (Warranties).

**4. Authorized Users**

The authorized user of the Cloud Product or Software is the City of Tucson, including its employees, authorized agents, consultants, auditors, other independent contractors and any external users contemplated by the parties. This paragraph does not modify the quantity of users licensed.

**5. Limitation Of Liability**

5.1. Subject to the provisions of Section 5.2 below, each party’s aggregate liability for all claims arising out of this agreement, whether in contract, tort or otherwise, shall not exceed the greater of: (i) forty-eight (48) times the average monthly charges paid by the City to the Licensor (or Reseller, if any), calculated over the prior twelve (12) month period immediately preceding the date on which liability for the claim first arose; (ii) three times

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(3x) the contract value; or (iii) one million dollars (\$1,000,000).

5.2. The limitation of liability set forth in Section 5.1 above will not apply to Licensor's liability arising out of any of the following: (i) Licensor's indemnification obligations under this agreement; (ii) Licensor's breach of the confidentiality provisions in this agreement; (iii) the infringement by Licensor, or any of its affiliates or subcontractors of the intellectual property of the City or of a third party; and (iv) to the extent prohibited by law.

5.3. To the extent that Licensor may be liable to the City for any action, inaction or operation of the Licensor under the EULA, including this Rider, or under statutory or common law, for which Reseller may also be liable, Licensor's and the Reseller's (if any) liabilities are joint and several, and the City is not limited in its ability to seek recourse from one or the other.

## **6. Warranties**

6.1. SLA. Licensor represents and warrants that the Cloud Product or Software provided under the EULA will function in accordance with the agreed upon service levels. Contractor shall calculate and apply all service credits earned during a given billing period to the invoice for the following billing period. SLA claims and service credits will not be deemed to be waived by the passage of time or the City's failure to report an issue or request service credits.

6.2. Intellectual Property. Licensor represents and warrants that it has the rights necessary to license the Cloud Product or Software to the Licensee in accordance with the terms of the EULA.

## **7. Indemnification for Intellectual Property Infringement**

Licensor shall defend, indemnify and hold Licensee and its employees, officers and agents (collectively, "Indemnitees") harmless from any and all judgments, damages, liabilities, amounts paid in settlement, awards, fines, penalties, disbursements, costs and expenses (including witness fees, expert fees, investigation fees, travel expenses, bonds, the cost of

establishing the right to indemnification under this Section 7, court costs and reasonable attorney's fees) to which the Indemnitees may be subjected, become liable to pay, suffer or incur in connection with any claim, allegation, suit, subpoena, action or proceeding (whether completed, actual, pending, threatened, civil, criminal, investigative, administrative, meritorious or without merit) that arises from or relates to the infringement of any copyright, trade secret, trademark, patent or other tangible or intangible property or personal right of any third party by the Licensor or its subcontractors. Licensor shall defend, indemnify and hold the Indemnitees harmless regardless of whether or not the alleged infringement arises out of the use of the Cloud Product or Software in a manner not expressly contemplated in the EULA or in combination with any hardware, equipment or other software not provided or authorized by Licensor. Insofar as the facts or the law relating to any claim would preclude the Indemnitees from being completely indemnified by the Licensor, the Indemnitees will be partially indemnified by the Licensor to the fullest extent permitted by the law.

## **8. No Additional Terms Permitted**

To be valid and binding on the City, terms and conditions must bear the written signature of the Director of Procurement, Deputy Director of Procurement or Contract Administrator. No online terms and conditions that are incorporated by reference in the EULA will be binding on Licensee. In addition, no shrink-wrap, click-wrap or other end user terms and conditions that are embedded in or provided with any Cloud Product or Software are binding on Licensee, even if use of the Cloud Product or Software requires an affirmative acceptance of those terms.

## **9. No Portion of this Agreement may be Changed Unilaterally**

No portion of the EULA, including this Rider, may be changed unilaterally. To be valid, any amendment to the EULA, including this Rider, must be in writing and signed by the parties. Any provision in the EULA to the contrary is deemed to conflict with this Rider and is be null and void.

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**10. Use of Third Party Providers**

10.1 Licensor must identify any third party entities involved in the provision of the Cloud Product or Software and provide a copy of the agreement between the Licensor and the third party provider. The agreement must be approved in writing by the City. Any provision in the EULA to the contrary is deemed to conflict with this Rider. If Licensor proceeds with an unapproved third party provider, it will be deemed liable to the City for any third party claims to the same extent as the third party provider would have had it agreed to the terms set forth in this Rider.

10.2 Any subcontractor or Affiliate (as defined below) of Licensor that provides any software or services in connection with this Agreement is deemed to be a subcontractor whose subcontracts must be approved in writing by the City. As used in this paragraph, "Affiliate" means any parent, subsidiary or other entity that is (directly or indirectly) controlled by, or controls, Licensor. Any provision in the EULA to the contrary is deemed to conflict with this Rider.

**11. Governing Law; Jurisdiction and Venue; Jury Waiver**

The laws of the State of Arizona, without reference to its choice of law principles, govern the EULA and any claims arising out of or relating to the EULA, its negotiation, execution, performance or breach. All disputes and controversies arising out of or relating to the negotiation, execution, performance or breach of the EULA, including this Rider, must be resolved in the Superior Court in Pima County, Arizona, and each party irrevocably consents to the exclusive venue and personal jurisdiction of those courts for the resolution of disputes and waives all objections thereto. To the fullest extent permitted by law, each party irrevocably waives its right to a jury in any litigation arising out of or relating to this EULA, its negotiation, execution, performance or breach.

**12. Fees.**

12.1. The City is not responsible for an early termination fee.

12.2. Rates and fees may only be increased pursuant to a written amendment to this Rider that has been signed by the parties. Overage and excess usage fees are not permitted in the absence of the City's prior written agreement.

12.3. The City will not be liable for any unauthorized use, including fees and charges that may become due to Licensor as a result of that use.

12.4. The City's payment of an invoice without objection or failure to raise an objection to an invoice will constitute a waiver of any objections to that invoice.

**13. City Data**

13.1. The City retains sole ownership and intellectual property rights in all City Data. Contractor does not have the right to retain any City Data other than as provided in this Rider. This Agreement does not convey to either party any ownership right or license to use, sell, exploit, copy or further develop the other party's Confidential Information or intellectual property, including patents, copyrights, trademarks, trade names and trade secrets. The City hereby retains all right, title, and interest in and to any suggestion, enhancement request, recommendation, correction or other feedback provided to Licensor relating to the Cloud Product or Software, except that Licensor may use that information in connection with its provision of the Cloud Products or Software to the City.

13.2. Licensor shall encrypt all City Data while in transit and at rest using encryption standards and methods that are approved and recommended by the National Institute of Standards and Technology and comply with FIPS 140-2, Security Requirements for Cryptographic Modules. Licensor shall ensure that all City Data is segregated from other data maintained by Licensor, and that City Data is stored, maintained and processed on physical servers and storage devices that are dedicated to the City.

13.3. At all times during the City's agreement with Licensor, including during any suspension, and for a period of 180 days after the

LICENSOR: ZOLL  
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end of that agreement, Licensor shall, at no cost to the City:

- i. ensure that all City Data maintained by Licensor or its subcontractors remains immediately accessible to the City through an encrypted Internet connection;
- ii. transmit encrypted City Data to the City in a format that complies with the City's Open Data Law (NYC Administrative Code §§ 23-501 et seq.), is easily usable by the City and does not include or require any proprietary software or other materials for its use; and
- iii. within 30 days after receiving a notice from the City's Chief Information Security Officer, copy and return City Data pursuant to the express written instructions set forth in the City's; unless otherwise specified in that notice, City Data must be returned on portable digital media that employs full disk encryption and the cryptographic keys must not be shipped with the City Data.

13.4. Licensor may not use, access, or perform any analytical analyses of any kind on data derived from the City's usage of the Cloud Product and Software, whether anonymized or aggregated or both, except as agreed to in writing by the City in its discretion, or as required for the Licensor to provide Cloud Products and Software for the City.

13.5. City Data must be located at all times in the United States, whether at rest, in transit or otherwise, except as provided in writing by the City of Tucson.

13.6. Any third party, subcontractor, or affiliate of Licensor that uses or has access to City Data is also subject to the obligations of this Sections 13 (City Data), 14 (Security) and 15

(Additional Terms for Software Licenses) of this Rider.

13.7. At the end of the 180 day period, or as otherwise requested by the City in writing, Licensor shall immediately destroy the City Data, including any copies, extracts, descriptions, and summaries contained in Contractor's records or systems, and provide the City with a written certification setting forth the actions taken to assure destruction. All media must be sanitized in accordance with the most recent version of NIST SP 800-00, Guidelines for Media Sanitization, or its successor publication.

#### 14. Security

14.1 Licensor shall comply with all Privacy Laws and industry standards (e.g., PCI DSS) ("**Industry Controls**") that are applicable to the Cloud Products and Software, including the provision of all critical security updates and patches.

14.2 Cloud Provider shall cooperate with the City's reasonable investigation of Service issues, data security and breach issues and any suspected breach of this Agreement.

14.3 Licensor shall perform a semi-annual audit of the security of the computers and the computing environment it uses in processing City Data. The audit must be performed according to ISO 27001 and SOC 2 Type II standards or the industry best-practice existing at the time of the audit, if stricter. Regardless of the standard, each audit will result in the generation of an audit report, which Licensor shall provide to the City within fifteen (15) days of performing the audit.

#### 15. Additional Terms for Software Licenses

To the extent that the order includes Software, the following terms and conditions will apply and govern only Software (including any software embedded in hardware) licensed to the City:

##### 15.1. General License Terms

The Licensor hereby grants to the City a paid-up, royalty-free, worldwide, non-exclusive,

LICENSOR: ZOLL  
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CONTRACT PIN: \_\_\_\_\_

perpetual, and irrevocable license to use, execute, reproduce, distribute to authorized users, make, modify, adapt, display, perform, create derivative works of, and copy for backup and disaster recovery purposes, the software, with all license rights necessary to fully effectuate the purposes of the Agreement and the business purposes of the City. This paragraph does not modify the quantity of users or devices licensed.

15.2. **Warranties**

- i. **Software.** Licensor represents and warrants that the software provided under this Agreement will function in accordance with the documentation made available to the City.
- ii. **Intellectual Property.** Licensor represents and warrants that it has the rights necessary to license the software to the Licensee in accordance with the terms of this Agreement.
- iii. **Malware.** Licensor warrants that the software contains no:  
(i) viruses, worms, spyware or malware; (ii) coding that may disable the software or impair in any way its operation based

on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numerals, or other similar self-destruct mechanisms (e.g., "time bombs," "time locks," or "drop dead" devices); or (iii) coding that would permit the Contractor, Third-Party Licensor or any third party to access the software to cause disablement or impairment (e.g., a "trap door" device). This malware warranty shall apply until the later of the end of the warranty period specified in the order or one (1) year after the date on which the software is accepted by the City.

- iv. **General.** No warranties provided by the Reseller or Licensor will be invalidated by the failure of the City to install or otherwise use an available software update (e.g., a new version or release).

**ACKNOWLEDGED AND ACCEPTED BY:**

Licensor: ZOLL Medical Corporation

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Licensee: City of Tucson

Name: \_\_\_\_\_

Title: Contract Administrator

Date: \_\_\_\_\_



**Business Associate Agreement  
Between  
The City of Tucson and ZOLL Medical Corporation**

This Agreement is entered into between the City of Tucson (hereinafter “Covered Entity”) and ZOLL Medical Corporation (hereinafter “Business Associate”).

This Agreement is incorporated into all existing and current contract(s) between the parties (the “Underlying Contract(s)”) under which Business Associate is carrying out activities or functions involving the use of protected health information (PHI), as this term is defined in 45 CFR Parts 160 and 164, and it replaces any prior agreement(s) entered concerning such PHI. Business Associates must comply with all requirements for protecting PHI under federal Privacy and Information Security regulations and are subject to the application of civil and criminal penalties under sections 1176 and 1177 of the Social Security Act. Covered Entity is committed to providing high quality patient care, education, and research. In furtherance of its mission, Covered Entity wishes to conduct transactions involving the disclosure of PHI to Business Associate for the purpose of conducting the activities set forth in the Underlying Contract(s).

Some or all of the information to be disclosed is required by law to be protected against unauthorized use, disclosure, modification or loss. In order to comply with applicable legal requirements for the protection of information, the parties agree as follows:

**A. ALLOWABLE USES OF PHI**

Only the minimum necessary PHI to accomplish the intended purpose of this agreement can be used or disclosed only for the following purposes:

- 1.
- 2.
- 3.

**B. OBLIGATIONS OF BUSINESS ASSOCIATE**

**Section 1. Safeguarding Information.**

A. Business Associate shall only use, store, disclose, or access PHI:

- (1) In accordance with, and only to the extent permissible under the Underlying Contract; and

(2) In full compliance with any and all applicable laws, regulations, rules or standards, including, but without limitation, FERPA, HIPAA, the Gramm-Leach-Bliley Financial Services Modernization Act (GLB), the Federal Trade Commission Identity Theft Rules, the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the Social Security Act, RCW 19.255.010 and RCW 42.56.590.

B. Business Associate shall have in place policies and procedures to implement and maintain all safeguards necessary to ensure the confidentiality, availability, and integrity of all Covered Entity data. Such safeguards shall include as appropriate, and without limitation, use of: policies and procedures to prevent any unauthorized use or disclosure of, or access to, PHI; restrictions on administrative access to PHI; system firewalls, secure network and transfer protocols such as Secure Socket Shell (SSH), Secure Copy Protocol (SCP), Hyper-Text Transfer Protocol over Secure Sockets Layer (HTTPS), or Internet Protocol Security (IPSec); industry compliant network authentication protocols such as Kerberos or Lightweight Directory Access Protocol (LDAP); encryption; regular and timely system upgrades, including implementation of security patches; disk quotas to ensure system availability; logging in accordance with City of Tucson specifications, maintenance of logs on centralized servers; and backup systems for disaster recovery, security, and forensics purposes.

C. Business Associate shall have in place policies and procedures to detect patterns, practices, or specific activities that indicate the possible existence of identity theft (The Federal Trade Commission has regulations known as the Red Flag Rules which are part of the Fair and Accurate Credit Transactions (FACT) Act of 2003) that may arise in the performance of Business Associate's activities and shall:

(1) Report all Red Flags to Covered Entity at the address provided for reporting unauthorized use or disclosure of PHI in Section 3; and

(2) Take prompt steps to prevent or mitigate possible identity theft when Red Flags are detected.

## **Section 2. Use or disclosure of Protected Health Information.**

Business Associate shall not use or disclose PHI received from Covered Entity in any manner that would constitute a violation of federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and any regulations enacted pursuant to its provisions ("HIPAA Standards"), or applicable provisions of Arizona state law.. Business Associate shall ensure that any use or disclosure by its directors, officers, employees, contractors, and agents of PHI received from Covered Entity, or created or received on behalf of Covered Entity is in accordance with the provisions of this Agreement and applicable federal and state law. Business Associate shall not use or disclose PHI in any manner other than that permitted or required by the Covered Entity for the purpose of accomplishing services to or on behalf of Covered Entity in accordance with the Underlying Contracts. Notwithstanding the foregoing, Business Associate may use PHI

for the proper management and administration of the Business Associate and to carry out its legal responsibilities.

**Section 3. Reporting of Unauthorized Use or Disclosure of PHI.**

Business Associate shall, within five (5) working days of becoming aware of an unauthorized use or disclosure of PHI by Business Associate, its officers, directors, employees, contractors, agents or by a third party to which Business Associate disclosed PHI, report any such disclosure to Covered Entity. Such notice shall be made to the following:

The City Attorney  
City of Tucson  
255 West Alameda Street  
Tucson, AZ 85701

**Section 4. Agreements by Third Parties.**

Business Associate shall obtain satisfactory assurances from any agent or subcontractor who will have access to PHI that is received from Covered Entity, or created or received on behalf of the Covered Entity, and shall ensure that the agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Business Associate through this Agreement with respect to PHI. Business Associate shall require that any agent or subcontractor notify Business Associate of any instances in which PHI is used or disclosed in an unauthorized manner. Business Associate agrees to notify Covered Entity of any such unauthorized use or disclosure. Business Associate shall take steps to cure the breach of confidentiality and end the violation, or shall terminate the agency agreement or subcontract.

**Section 5. Access to Information.**

If Business Associates maintains Designated Record Set (DRS) documentation on behalf of Covered Entity, Business Associate agrees to provide access to the documentation maintained by the Covered Entity. Business Associate shall make available to Covered Entity such information for so long as it is maintained. If any individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to the Covered Entity. Business Associate shall not deny any individual's request for access to the individual's PHI. A denial of access to PHI requested is the responsibility of the Covered Entity.

**Section 6. Availability of PHI for Amendment.**

Within five days of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a DRS (for so long as the PHI is maintained in the DRS), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. §164.526.

**Section 7. Accounting of Disclosures.**

Business Associate agrees to implement an appropriate record keeping and reporting process to enable it to provide the following information regarding disclosures of PHI: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. If Business Associate receives a request for an accounting of disclosures, Business Associate shall forward such request to Covered Entity within a reasonable time frame to allow Covered Entity to prepare and deliver any required accounting of disclosures.

**Section 8. Restrictions on Certain Disclosure of Health Information.**

Business Associate agrees to restrict the disclosure of the protected health information of an individual, if Covered Entity agrees to a requested restriction by an individual. If Business Associate receives a request for a restriction, Business Associate shall forward such request to Covered Entity within five business days to allow Covered Entity to respond to the requested restriction.

**Section 9. Availability of Books and Records.**

Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from Covered Entity, or created or received on behalf of Covered Entity, available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Covered Entity's and Business Associate's compliance with the HIPAA Standards. Business Associate shall provide to Covered Entity a copy of any documentation that Business Associate provides to the Secretary within five business days.

**Section 10. Return or Destruction of Information.**

At the termination of the Underlying Contract(s), Business Associate shall return or destroy all PHI received from Covered Entity, or created or received on behalf of Covered Entity, that Business Associate maintains in any form. Business Associate will retain no copies of PHI. If Business Associate determines that return or destruction of any PHI is not feasible, Business Associate shall notify Covered Entity of the reasons why return or destruction is not feasible. If destruction or return of PHI is not feasible, Business Associate shall not use PHI received from Covered Entity, or created or received on behalf of Covered Entity, in a manner other than those permitted or required by state and federal laws or for the purposes described herein.

**Section 11. Electronic Protected Health Information ("ePHI").**

If Business Associate creates, receives, maintains or transmits ePHI on behalf of Covered Entity, Business Associate agrees to (1) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Covered Entity's ePHI in accordance with Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations; (2) ensure that any third

party agent or subcontractor who receives Covered Entity's ePHI from Business Associate agrees to implement equivalent administrative, physical and technical safeguards; and (3) deploy appropriate safeguards to implement the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in carrying out security standards; and (4) report any security incidents involving Covered Entity's ePHI within five business days of discovery.

**Section 12. Potential Breach of PHI.**

A. If Business Associate has reason to believe that personal information or PHI transmitted pursuant to this Agreement may have been accessed, disclosed, or acquired without proper authorization, Business Associate will, within five business days of discovery, give City of Tucson notice and take actions as may be necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the breach. A breach shall be treated as discovered by the BA as of the first day on which such breach is known to the BA, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of the BA) or should reasonably have been known to the BA (or person referenced above) to have occurred. Business Associate shall give highest priority to immediately mitigate and remediate any unauthorized access and shall devote such resources as may be required to accomplish that goal. The BA shall cooperate with all Covered Entity efforts, including providing any and all information necessary to enable Covered Entity to fully understand the nature and scope of the unauthorized access, including but not limited to identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach.

B. To the extent City of Tucson deems warranted, City of Tucson may provide notice or may require Business Associate to provide notice to any or all individuals affected by any unauthorized access, whose personal and/or PHI may have been improperly accessed or disclosed that was not protected according to the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in carrying out security standards. In such case, Business Associate shall consult with Covered Entity regarding appropriate steps required to notify third parties. In the event that the Business Associate's assistance is required to reinstall software, such assistance shall be provided at no cost to Covered Entity and in accordance with the Covered Entity's policies and standards. Business Associate must coordinate with City of Tucson any public notification to any individual, media outlet, or the Secretary of Health and Human Services.

If City of Tucson determines that notification is required, the BA shall pay the full costs of notice to impacted individuals, including the costs to retain an outside consulting firm to undertake the notification effort and will supply City of Tucson Compliance with the following information to make such notification:

- (1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) A brief description of what the BA is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

C. Business Associate shall indemnify, hold harmless, and defend City of Tucson from and against any penalties, claims, actions, loss, liability, damage, costs, or expenses, including but not limited to reasonable attorneys' fees, system remediation, or forensic analysis, arising from or pertaining to a breach of this agreement, the violation of any state or federal law applicable to the use, disclosure or protection of personal information or PHI, and the unauthorized access to PHI. The indemnification provided hereunder includes the full costs of notice to impacted individuals, including the costs to retain an outside consulting firm to undertake the notification effort.

D. City of Tucson has the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Business Associate's technical capabilities.

### **C. Miscellaneous.**

#### **Section 13. Termination.**

Notwithstanding any provision to the contrary in the Underlying Contract(s), Covered Entity may terminate its participation in the Underlying Contract(s) immediately upon written notice to Business Associate without liability for such termination, in the event that Covered Entity determines that Business Associate has violated a material provision of this Agreement.

#### **Section 14. Third Party Beneficiaries.**

Nothing in this Addendum is intended to create any third party beneficiaries.

#### **Section 15. Definitions.**

**Personal Information** means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (a) Social security number;
- (b) Driver's license number or Arizona identification card number; or
- (c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

**Breach of the security of the system** means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency.

All terms not otherwise defined herein shall be defined in accordance with 45 CFR Parts 160 and 164.

Signature	Position	Date
City of Tucson		

Signature	Position	Date
ZOLL Medical Corporation		



CITY OF  
TUCSON

DEPARTMENT OF  
PROCUREMENT

July 26, 2017

Amy Coffin  
Bid & Proposals Coordinator  
ZOLL Medical Corporation  
269 Mill Road  
Chelmsford, MA 01824  
[acoffin@zoll.com](mailto:acoffin@zoll.com)

*Sent via electronic mail, this day*

**Subject: Request for Proposal No. 171769 – Cardiac Monitors  
Additional Information to Intent to Negotiate**

Dear Ms. Coffin:

The City of Tucson has completed the evaluation of submittals received in response to the subject solicitation. Based upon the recommendation of the evaluation committee, the City is inviting your firm to enter negotiations. Specifically, the City requests the following:

**1. Special Terms and Conditions: Insurance**

- a. The City shall hereby add the attached Insurance clause to the Special Terms and Conditions as paragraph 9. Please confirm your understanding and acceptance of this clause.

This Notice of Intent to Negotiate is not an intent to award a contract and does not establish a contractual relationship between the firm and the City. In the event that the City is not able to negotiate a satisfactory contract with the firm, the City will terminate negotiations.

Please submit a written response to my attention via e-mail to [Jenn.myers@tucsonaz.gov](mailto:Jenn.myers@tucsonaz.gov) as soon as possible. Please contact me via e-mail or at (520) 837-4137 with questions regarding the items above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenn Myers', enclosed in a rectangular box.

Jenn Myers  
Senior Contract Officer

Attachments: One (1)

**INSURANCE:**

The Contractor agrees to:

- A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least 30 days prior to termination or cancellation in coverage in any policy, and 10 days notice for cancellation due to non-payment in premium.
- B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. The insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable

COVERAGE	LIMITS OF LIABILITY
<b>I. Commercial General Liability:</b>	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Project	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
<b>II. Commercial Automobile Liability</b>	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
<b>III. Workers' Compensation (applicable to the State of Arizona)*<sup>1</sup></b>	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
<b>V. Professional Liability – Technology Errors &amp; Omissions - In addition to I, II, III</b>	
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

\*<sup>1</sup> Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

- D. **ADDITIONAL INSURANCE REQUIREMENTS:** Policies shall be endorsed to include the following provisions:
  1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor (including Worker's Compensation).

2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
  3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- E. **NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require 10 days written notice from the Contractor to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.
- F. **ACCEPTABILITY OF INSURERS:** Contractors insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- G. **VERIFICATION OF COVERAGE:** Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department of Procurement.

The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.

- H. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- I. **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance.

## **5. ZOLL's Response to Intent to Negotiate**

**Jenn Myers - ZOLL Medical Corporation's response to the City of Tucson's Intent to Negotiate: Request for Proposal# 171769- Cardiac Monitors due July 14, 2017 at 4:00p.m.**

---

**From:** Amy Coffin <ACoffin@zoll.com>  
**To:** "jenn.myers@tucsonaz.gov" <jenn.myers@tucsonaz.gov>  
**Date:** 7/14/2017 11:12 AM  
**Subject:** ZOLL Medical Corporation's response to the City of Tucson's Intent to Negotiate: Request for Proposal# 171769- Cardiac Monitors due July 14, 2017 at 4:00p.m.  
**Cc:** Mike Borkowski <MBorkowski@zoll.com>, Ryan Grulke <RGrulke@zoll.com>, Ba...  
**Attachments:** City of Tucson Cover Letter.pdf; Notice of Intent to Negotiate-Final.docx; X Series EMS One Year Warranty.docx; AED Plus 5 YR Product Warranty.docx; Tucson Access Agreement template.doc; End User License Agreement .docx; BEST AND FINAL PRICE PAGE - Final.pdf; City of Tucson Department of Procurement 249242Version 1 .pdf; OFFER AND ACCEPTANCE - Final.pdf

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Hello Jen,

Attached you will find ZOLL Medical Corporation's response to your Intent to Negotiate: Request for Proposal# 171769- Cardiac Monitors. Our response includes the following documents:

- ZOLL Cover Letter
- Intent to Negotiate Document
- EMS One (1) Year Warranty (Word Doc for editing)
- AED Plus Five (5) Year Warranty (Word Doc for editing)
- Access Agreement
- End User License Agreement
- Best & Final Offer Page
- ZOLL Quotation
- Offer & Acceptance

Please let me know that this has been received, and if you have any questions.

Thank you for the opportunity,

Amy Coffin  
Bids/Proposals Coordinator  
Notary Public  
978-421-9447 phone (direct)  
800-348-9011 phone (toll free)  
978-421-0015 fax  
acoffin@zoll.com  
www.zoll.com

**ZOLL**

*An Asahi Kasei Group Company*

This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized use or disclosure is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.



269 Mill Road  
Chelmsford, Massachusetts 01824-4105  
978-421-9655 (main)  
978-421-0025 (fax)  
www.zoll.com

July 14, 2017

City of Tucson Department of Procurement  
255 W. Alameda, 6<sup>th</sup> Floor  
Tucson, AZ 85701

RE: Intent to Negotiate: Request for Proposal# 171769- Cardiac Monitors

Dear Sir/Ma'am,

ZOLL® Medical Corporation ("ZOLL") is pleased to provide our response to your Intent to Negotiate: Request for Proposal# 171769- Cardiac Monitors due July 14, 2017 at 4:00 p.m.

Our proposal includes the following:

- Intent to Negotiate Document with comments added and references to the included documents below:
  - EMS One (1) Year Warranty
  - AED Plus Five (5) Year Warranty
  - Access Agreement
  - End User License Agreement (pertains to ZOLL Data Items only)
- Best & Final Price Page
- ZOLL Quotation
- Offer & Acceptance

Highlighted below are some key points in our final offer.

- All necessary components to bring pediatric CPR to the entire department have been added to the quote. This will allow for the department to significantly scale back the need for AEDs, resulting in a savings of thousands of dollars.
- The additional twelve Philips MRX trades were added to the final offer. Its trade value in the open market has declined significantly of late. For the final offer we've added five trades at the original trade value we bid in the RFP (\$8,534) to match the additional five X Series units that were added to package. For the remaining seven units, our trade offer is \$3,000. The total trade incentive for the monitors goes from (\$366,962) to (\$409,632).
- The fifty-six Philips FR3 trades have been added at \$100 each for a total incentive of \$5,600.
- Seventy five 5ft NIBP cables have been added at no cost, resulting in a savings value of \$6,562.50
- For training purposes we've included three AED Plus trainers at no cost, resulting in a savings value of \$1,137 to help ease the transition to the new AED.

Thank you for your time, effort, and the opportunity to work alongside The City of Tucson and the Fire Department on this important project. We understand you still have an important decision to make, and we hope you will seriously consider our best and final offer. We look forward to building on our relationship with the City.

If you need any further information or assistance, please do not hesitate to call me at 480-299-8900 (mobile) or email me, [mborkowski@zoll.com](mailto:mborkowski@zoll.com).

Regards,

Mike Borkowski  
EMS Strategic Account Manager

MB/ajc  
Enclosures



## CITY OF TUCSON

DEPARTMENT OF PROCUREMENT

July 12, 2017

Amy Coffin  
Bid & Proposals Coordinator ZOLL  
Medical Corporation 269 Mill Road  
Chelmsford, MA 01824  
[acoffin@zoll.com](mailto:acoffin@zoll.com)

*Sent via electronic mail, this day*

**Subject: Request for Proposal No. 171769 – Cardiac Monitors Intent to Negotiate**

Dear Ms. Coffin:

The City of Tucson has completed the evaluation of submittals received in response to the subject solicitation. Based upon the recommendation of the evaluation committee, the City is inviting your firm to enter negotiations. Specifically, the City requests the following:

**1. Best and Final Pricing**

a. The City requests a Best and Final Offer from Zoll Medical Corporation. Please complete the attached Best and Final Price Page.

- In consideration of the cardiac monitor having the functionality of the AEDs, the City has revised the intent of the initial purchase quantities to seventy-five (75) cardiac monitors and twenty (20) AEDs. This is reflected on the Best and Final Price Page.
- The City has also added to the Best and Final Price Page, two line items for trade-in value. The City intends to trade in fifty-five (55) MRX monitors and fifty-six (56) Philips FR3s. Please provide the trade-in value for these items.

b. Please provide a break down (similar to the original quotation) including the 5ft Dual Lumen NIBP Hose in lieu of the 10ft, that incorporates the above mentioned items into a final price proposal.

Completed pricing document with the above requirements is included with this response.

**2. Special Terms and Conditions: Defective Product**

The City accepts Zoll's proposed modifications in the attached Special Terms and Conditions: Defective Product.

**3. Special Terms and Conditions: Warranty**

The City rejects Zoll's proposed deletion in the attached Special Terms and Conditions: Warranty. Please clarify why Zoll will not provide a warranty for the "fitness for the intended use".

A warranty for fitness for intended use means that, where ZOLL at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying

on ZOLL's skill or judgment to select or furnish suitable goods, there is an implied warranty that the goods are be fit for that purpose. For example, if the customer indicates that they want an AED where the user can provide a shock even when not advised by the box, and ZOLL sells an AED Plus, that would violate the warranty.

Please advise if the City of Tucson has a specific use that is not covered by our standard warranty, and if so we request that the City of Tucson redline the included warranty documentation included in our response.

**4. Special Terms and Conditions: Cooperative Purchasing**

Zoll has requested that a signed contract acknowledgement form be required for any EMS/Fire agencies utilizing this contract, at time of order. Please provide a copy of this form for the City's review.

The City of Tucson Access Agreement has been included in this response for your review.

**5. Cooperative Administration Fee**

The City requests that the proposed offer be revised to provide a 3% administrative fee to the City on all sales to other agencies, which on average represents the typical administrative fee for cooperative contracts.

ZOLL accepts the 3% fee, which will be paid quarterly, within 60 days after the end of the quarter for all EMS/Fire Agencies.

**6. Standard Terms and Conditions: Contract Amendments**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Contract Amendments.

**7. Standard Terms and Conditions: Default in One Installment to Constitute Total Breach**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Default in One Installment to Constitute Total Breach.

**8. Standard Terms and Conditions: Exclusive Possession**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Exclusive Possession.

**9. Standard Terms and Conditions: Indemnification**

The City denies the modification to the Standard Terms and Conditions: Indemnification. The original language published within the Request for Proposal shall endure without change or modification. Please confirm your understanding of this clause.

ZOLL agrees to the Indemnification clause as originally included in the RFP.

**10. Standard Terms and Conditions: Inspection and Acceptance**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Inspection and Acceptance.

**11. Standard Terms and Conditions: Termination of Contract**

The City accepts the addition of "and after providing the Contracts an adequate opportunity to cure." to the first sentence of the second paragraph. The City does not agree to remove "In the opinion of the City" throughout this term and condition. Please confirm your agreement to retain the phrase "In the opinion of the City..."

ZOLL accepts to the alternate language proposed here.

### 12. End User License Agreement

During the presentation, Zoll stated that users of the website would agree to an End User License agreement for access to the website. Please provide a copy of that agreement for the City's review and consideration.

A copy of the End User License Agreement is included with this response. This pertains to ZOLL Data items only, not to the items within the quotation we are including with our RFP response. These agreements can also be found online.

The user agreements are on the ZOLL Online website upon creating an account. This is done at ZOLL's Online login page (<https://www.zollonline.com/login>) by clicking Sign Up Now. There are links to two agreements at the bottom of the page:

1. ZOLL Online terms of service
2. ZOLL application service provider and business associate agreement

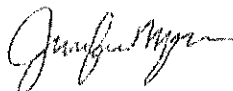
### 13. Offer and Acceptance Page

The City does not accept the modification made to the Offer and Acceptance Page. Please sign and return the attached Offer and Acceptance Page.

This Notice of Intent to Negotiate is not an intent to award a contract and does not establish a contractual relationship between the firm and the City. In the event that the City is not able to negotiate a satisfactory contract with the firm, the City will terminate negotiations.

Please submit a written response to my attention via e-mail to [Jenn.myers@tucsonaz.gov](mailto:Jenn.myers@tucsonaz.gov) on or before **Friday, July 14, 2017 at 4:00 PM**. Please contact me via e-mail or at (520) 837-4137 with questions regarding the items above.

Sincerely,



Jenn Myers  
Senior Contract Officer

Attachments: Four (4) Best and  
Final Price Page Offer and  
Acceptance  
Copy of Zoll's proposed Special Terms and Conditions Copy  
of Zoll's proposed Standard Terms and Conditions

Cc: Mike Borkowski, [mborkowski@zoll.com](mailto:mborkowski@zoll.com) Ryan  
Grulke, [rgrulke@zoll.com](mailto:rgrulke@zoll.com)



## EMS ONE YEAR PRODUCT LIMITED WARRANTY

ZOLL Medical Corporation (ZOLL) warrants to the Customer that from the date of shipment from ZOLL's facility, the equipment (constituting the Defibrillators and Battery Chargers) will be free from defects in material and workmanship under normal use and service for the period of one (1) year from the date of shipment. The Factory Warranty covers all parts, labor, shipping and insurance costs for the repair of the equipment. A Service Loaner is provided at no charge for use during the repair.

During such one-year period ZOLL will, at no charge to the Customer, either repair or replace (at ZOLL's sole option) any part of the equipment found to be defective in material or workmanship. If ZOLL's inspection detects no defects in material or workmanship, ZOLL's regular service charges shall apply.

Accessories (constituting the cables, paddles, SpO2 sensors, single battery chargers and electrodes) shall be warranted for 90 days from date of shipment. During such period ZOLL will, at no charge to the Customer, either repair or replace (at ZOLL's sole option) any part of the accessories found by ZOLL to be defective in material or workmanship. If ZOLL's inspection detects no defects in material or workmanship; ZOLL's regular service charges shall apply.

ZOLL shall not be responsible for any equipment defect, the failure of the equipment to perform any specified function, or any other nonconformance of the equipment, caused by or attributable to: (i) any modification of the equipment by the Customer, unless such modification is made with the prior written approval of ZOLL; (ii) the use of the equipment with any associated or complementary equipment, accessory or software not supplied by ZOLL; (iii) any misuse or abuse of the equipment; (iv) exposure of the equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL; or (v) installation or wiring of the equipment other than in accordance with ZOLL's instructions.

This warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, patient cables and accessories.

The foregoing warranty does not apply to software included as part of the equipment (including software embodied in read-only memory, known as "firmware").

THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ZOLL's maximum liability arising out of the sale of the Products (equipment and related accessories and disposables) or their use, whether based upon warranty, contract, tort or otherwise, shall not exceed the actual payments received by ZOLL in connection therewith. ZOLL shall not be liable for any incidental, special or consequential loss, damage or expense (including without limitation lost profits) directly or indirectly arising from the sale, inability to sell, use or loss of use of any Product (however caused and on any theory of liability), even if ZOLL has been advised of the possibility of such loss. The foregoing limitations shall not apply to any claims for bodily injury or death to the extent that limitation of damages for such claims are unenforceable or against public policy under any applicable statute or rule of law.



## AED PLUS AND AED PRO FIVE YEAR LIMITED PRODUCT WARRANTY

ZOLL Medical Corporation (ZOLL) warrants to the Customer that from the date of installation, or thirty (30) days after the date of shipment from ZOLL's facility, whichever first occurs, the Equipment (constituting the Defibrillator) will be free from defects in material and workmanship under normal use and service for a period of five (5) years. The Factory Warranty covers all parts, labor, shipping and insurance costs for the repair of the Equipment. A Service Loaner is provided at no charge for use during the repair.

During such five-year period ZOLL will, at no charge to the Customer, either repair or replace (at ZOLL's sole option) any part of the Equipment found to be defective in material or workmanship. If ZOLL's inspection detects no defects in material or workmanship; ZOLL's regular service charges shall apply.

Accessories (constituting the PASS cover and electrodes) shall be warranted for ninety (90) days from date of shipment. During such period ZOLL will, at no charge to the Customer, either repair or replace (at ZOLL's sole option) any part of the accessories found by ZOLL to be defective in material or workmanship. If ZOLL's inspection detects no defects in material or workmanship; ZOLL's regular service charges shall apply.

ZOLL shall not be responsible for any Equipment defect, the failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to: (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL; (ii) the use of the Equipment with any associated or complementary Equipment, accessory or software not supplied by ZOLL; (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL; or (v) installation or wiring of the Equipment other than in accordance with ZOLL's instructions.

This warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, patient cables and accessories. The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory, known as "firmware").

The foregoing warranty constitutes the exclusive remedy of the customer and the exclusive liability of ZOLL for any breach of any warranty related to the Equipment supplied hereunder.

**THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF "MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE."**

ZOLL's maximum liability arising out of the sale of the Products (Equipment and related accessories and disposables) or their use, whether based upon warranty, contract, tort or otherwise, shall not exceed the actual payments received by ZOLL in connection therewith. ZOLL shall not be liable for any incidental, special or consequential loss, damage or expense (including without limitation lost profits) directly or indirectly arising from the sale, inability to sell, use or loss of use of any Product (however caused and on any theory of liability), even if ZOLL has been advised of the possibility of such loss. The foregoing limitations shall not apply to any claims for bodily injury or death to the extent that limitation of damages for such claims is unenforceable or against public policy under any applicable statute or rule of law.

In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

8/26/10

Updated:



# EXHIBIT A

## ACKNOWLEDGMENT FORM

We, \_\_\_\_\_, located at \_\_\_\_\_, as of the date of this request, would like to access the *City of Tucson's Contract # 171769 for Cardiac Monitors dated \_\_\_\_\_*. This contract is effective \_\_\_\_\_ through \_\_\_\_\_ with ZOLL Medical Corporation. As per the purchasing agreement included therein, by signing this request, I am certifying that I am a person authorized to bind the agency, and by doing so agree to accept all terms and conditions as stated within the *City of Tucson's Contract # 171769 for Cardiac Monitors dated \_\_\_\_\_*.

AGENCY NAME:

\_\_\_\_\_

Date:

\_\_\_\_\_

Signed:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

ZOLL Online Terms of Service  
ZOLL Online Terms of Use

Last updated on 9/8/2014

ZOLL Data Systems, Inc. ("ZOLL," "we," "us," or "our") provides you with access to the website <http://www.zollonline.com> and other features, applications, emails, content, presentations, downloads, surveys, reviews, newsletters, panels, communities and/or other devices, products or services (collectively, the "Site") subject to the following Terms of Use. Please read the following Terms of Use carefully before using the Site. By accessing or using the Site, you agree to these Terms of Use.

We may, from time to time, modify or change the Terms of Use. Any revised version of the Terms of Use will be posted on our Site and will govern your future use of the Site. Please review these Terms of Use periodically.

#### 1. INTELLECTUAL PROPERTY

The Site and its related content and services and any derivative works or enhancements of the same (collectively, "Site Content") and all intellectual property rights to the same are owned by us or our licensors. All trademarks, service marks, trade names and trade dress that may appear on the Site are owned by us or our licensors. Except for the limited use rights granted in these Terms of Use, you shall not acquire any right, title or interest in the Site or any Site Content. Any rights not expressly granted in these Terms of Use are expressly reserved.

#### 2. ACCESS OR USE OF THE SITE

- (a) Use of the Site and certain Site Content requires you to be 18 years of age or older.
- (b) Whenever you submit information to us, you agree to provide true, accurate and complete information.
- (c) Accounts or Registration. We may impose restrictions on your ability to establish an account or register for certain activities (e.g., age limits, limitations on the number of accounts, etc.). When registering an account, you may need to select a username ("ID") and password. You are responsible for keeping your ID and password, and other account information, confidential and are fully responsible for all activities that occur under your account, whether or not you authorized such activities. You agree to notify us immediately of any breach of security or unauthorized use of your account or ID and password.

#### 3. LIMITATION, SUSPENSION OR TERMINATION

- (a) We may, in our sole discretion, temporarily or permanently change, limit, suspend or terminate your access to the Site (including any Site Content or User Content) without prior notice. We may do so based on changes to our business practices (e.g., eliminating a service, etc.), if you violate the letter or spirit of these Terms of Use, or for any other lawful reason. You agree that we are not liable to you or any third party for any such action.
- (b) Any limitation, suspension or termination we impose shall not alter your obligations to us under these Terms of Use. The provisions of these Terms of Use which by their nature should survive any such action on our part shall survive.

#### 4. ACCEPTABLE USE

(a) The Site (including, without limitation, Site Content and User Content) is provided for your information and limited use. When using the Site, you agree to comply with these Terms of Use, and all applicable international, federal, state and local laws.

(b) Except as expressly permitted by these Terms of Use, you may not:

- use the Site in an unlawful or fraudulent manner or for such purposes, to collect personally identifiable information, or to impersonate other users;
  - modify our copyright/trademark or other proprietary rights notices, or interfere with the security-related features of the Site (e.g., those that prevent or restrict copying Site Content);
  - use the Site in any way to manipulate or distort, or undermine the integrity and accuracy of data, or take any action to interfere with, damage or disrupt any part of the Site;
  - use the Site to send, knowingly receive, upload/post or download, any material which does not comply with our content standards;
  - use the Site to transmit or facilitate the transmission of any unsolicited or unauthorized advertising or promotional material;
  - use the Site to transmit any data, or upload to the Site any data, that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware;
  - decompile, reverse engineer or disassemble any portion of the Site;
  - use any robot, spider, other automatic device or manual process to monitor or copy our web pages or Site Content, or use network-monitoring software to determine architecture of or extract usage data from the Site; or
  - engage in any conduct that restricts or inhibits any other user from using or enjoying the Site.
- (c) You agree to fully cooperate with us to investigate any suspected or actual activity that is in breach of these Terms of Use.

## 5. USER CONTENT

(a) We may now or in the future permit you to post, upload, transmit through or otherwise provide through the Site (collectively, "submit") messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information (e.g., your name, e-mail address, etc.) and other content (collectively "User Content").

(b) Standards. You agree not to submit any User Content protected by copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right without the express permission of the owner of the respective right. You are solely liable for any damage resulting from your failure to obtain such permission or from any other harm resulting from your User Content. You also represent and warrant that your User Content:

- will comply with all applicable laws;
- will be truthful, non-misleading and non-deceptive;
- will not contain any material which is tortious (e.g., defames or invades the privacy of any person, etc.), obscene, offensive, hateful or inflammatory;
- will not promote sexually explicit material or violence, or promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- does not breach any legal duty you owe to a third party, such as a contractual duty or a duty of confidence;
- will not be threatening, abuse or invade another's privacy, or provided with an intent to harass, upset or embarrass any other person;

- will not be provided with an intent to impersonate any person, to misrepresent your identity or affiliation with any person, or to falsely give the impression that your User Content comes from someone else; or

- will not advocate, promote or assist any unlawful act (e.g., criminal acts, copyright infringement, computer misuse, etc.).

(c) We may monitor, edit or remove any User Content for violation of the letter or spirit of these terms, or for any other lawful reason. However, we have no obligation to look for, edit or remove any User Content for any reason including, without limitation, violation of these terms.

(d) Grant of Rights & Use. We do not claim ownership to your User Content. However, by submitting User Content, you automatically grant, or warrant that the owner has expressly granted, to us a worldwide, royalty-free, perpetual, irrevocable, non-exclusive, fully sublicensable and transferable right and license to use, reproduce, distribute, create derivative works based upon (e.g., translations, etc.), publicly display/perform, transmit and publish the User Content (in whole or in part) as we, in our sole discretion, deem appropriate in connection with our business and operations. Notwithstanding the foregoing, you waive any and all claims you may now or later have in any jurisdiction to so-called "moral rights" or rights of "droit moral" with respect to the User Content.

By submitting User Content, you also grant us the right, but not the obligation, to use your biographical or other information about you including, without limitation, all or some of your name, alias, nickname and geographical location in connection with your User Content consistent with the license granted in the previous paragraph but subject to our Online Privacy Statement.

#### 6. RELIANCE ON SITE INFORMATION

(a) While we make efforts to ensure that information provided by us is accurate, we do not represent or warrant that any User Content or Site Content is accurate, complete or current. In all instances, it is your responsibility to evaluate the accuracy, timeliness, completeness, or usefulness of Site Content, User Content, and other information and opinions expressed through the Site.

(b) If there is a dispute between you and anyone accessing the Site, or you and any third party in connection with the Site, you understand and agree that we are under no obligation to become involved. In such instances, you hereby release ZOLL and its officers, directors, employees, parents, partners, successors, agents, affiliates, subsidiaries and their related companies from claims, demands and damages of every kind or nature arising out of, relating to or in any way connected with such dispute.

#### 7. THIRD PARTIES

(a) Your dealings with third parties via the Site, including third party websites accessed via links on the Site, are solely between you and that third party. As such, when you engage in a transaction with a third party or access a third party's website, you do so under their terms and policies, not ours. Complaints, questions and claims related to transactions with any third party should be directed to that third party.

(b) WE MAKE NO WARRANTIES REGARDING AND SHALL NOT BE LIABLE OR RESPONSIBLE TO YOU (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR YOUR USE OF, THE QUALITY OR LATE DELIVERY OF THE GOODS OR SERVICES FROM ANY THIRD PARTY OR FOR HONORING (OR TO CAUSE ANY MERCHANT TO HONOR) ANY ERRONEOUS INFORMATION REGARDING THE PRICE, DESCRIPTION AND AVAILABILITY OF, OR ANY DISCOUNTS, OFFERS, PROMOTIONS AND

COUPONS RELATING TO ANY PRODUCT OR SERVICE OFFERINGS PROMOTED OR AVAILABLE THROUGH THE SITE.

#### 8. LIMITS ON OUR LIABILITY

(a) UNDER NO CIRCUMSTANCES SHALL ZOLL OR ITS OFFICERS, DIRECTORS, EMPLOYEES, PARTNERS, SUCCESSORS, AGENTS, DISTRIBUTION PARTNERS, AFFILIATES, SUBSIDIARIES OR THEIR RELATED COMPANIES BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF ZOLL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH THE SITE OR THESE TERMS OF USE. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THE SITE INCLUDING, WITHOUT LIMITATION, ZOLL CONTENT IS TO STOP USING THE SITE. THIS LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF SERVICES OR PRODUCTS, INFORMATION, ADVICE, INFORMATION OR ADVERTISING RECEIVED THROUGH OR IN CONNECTION WITH THE SITE OR ANY LINKS PROVIDED VIA EITHER. THESE LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

(b) YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH THE SITE OR THESE TERMS OF USE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. CAUSES OF ACTION BROUGHT OUTSIDE THIS TIME PERIOD ARE WAIVED.

(c) In some jurisdictions, limitations of liability are not permitted and, therefore, some of the above limits may not apply in all instances.

#### 9. DISCLAIMER OF WARRANTIES

(a) TO THE FULL EXTENT PERMITTED BY LAW, THE SITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SITE ARE PROVIDED BY ZOLL ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ARE NOT WARRANTED TO BE, AMONG OTHER THINGS, FREE OF COMPUTER VIRUSES. YOU EXPRESSLY AGREE THAT YOUR USE OF THE SITE IS AT YOUR OWN RISK. ZOLL MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF ITS SITE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON ITS SITE OR OTHERWISE MADE AVAILABLE TO YOU THROUGH ITS SERVICES.

(b) Certain state laws do not allow limitations on implied warranties. If these laws apply to you, some or all of the above disclaimers, exclusions or limitations may not apply to you, and you might have additional rights.

#### 10. INDEMNIFICATION

You agree to defend, indemnify and hold harmless ZOLL and its officers, directors, employees, partners, successors, agents, distribution partners, affiliates, subsidiaries and their related companies from and against any and all claims, liabilities, losses, damages, obligations, costs and expenses (including reasonable attorneys' fees and costs) arising out of or related to: (i) your access to or use of the Site; (ii) your User Content; (iii) any actual or alleged violation or breach by you of these Terms of Use; (iv) any actual or alleged breach of any representation, warranty or covenant that you have made to us; or (v) your acts or omissions. You agree to cooperate fully with us in the defense of any claim that is the subject of your obligations hereunder.

#### 11. GOVERNING LAW

These Terms of Use shall be construed in accordance with the laws of the State of Colorado without regard to its conflict of laws rules. You consent to jurisdiction in the State of Colorado.

#### 12. AMENDMENT; ADDITIONAL TERMS

(a) We may update the Site to provide better options and features, or for other reasons. In certain instances it may be necessary to update or modify our Terms of Use. We also may, in some instances, need to provide you with operating rules or additional terms that govern your use of parts of the Site ("Additional Terms"). Accordingly, you agree that we may at any time provide you with Additional Terms, or update or modify these Terms of Use, as appropriate or necessary. To the extent any Additional Terms conflict with these Terms of Use, the Additional Terms will control.

(b) Modifications to these Terms of Use or any Additional Terms will be effective upon: (a) notice, either by posting on the Site or by other proper notification; and (b) your subsequent use of the Site. It is your responsibility to review the Terms of Use and the Site from time to time for any changes or Additional Terms. Your access and continued use of the Site following any modification of these Terms of Use or the provision of Additional Terms will signify your assent to and acceptance of the same. If you object to any revision to the Terms of Use or to any Additional Terms, immediately discontinue use of the Site.

#### 13. OTHER TERMS

(a) No waiver by either of us of any breach or default under these Terms of Use shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used in these Terms of Use are for convenience only and shall not be given any legal import.

(b) Except where specifically stated otherwise, if any part of these Terms of Use are deemed unlawful or unenforceable for any reason, we both agree that only that part of the Terms of Use shall be stricken and that the remaining terms in the Terms of Use shall not be affected and shall remain in force and effect.

(c) You may not assign these Terms of Use or assign any rights or delegate any obligations hereunder, in whole or in part, without our prior written consent.

(d) These Terms of Use (including the Online Privacy Statement and any Additional Terms incorporated by reference) constitute the entire agreement, and supersede all previous written or oral agreements, between you and ZOLL in connection with the Site.

ZOLL Application Service Provider and Business Associate Agreements  
ZOLL Online Application Service Provider Agreement

**IMPORTANT-READ CAREFULLY.** This Application Service Agreement ("Agreement") is a legal Agreement between you ("Customer") and ZOLL Data Systems, Inc., at 11802 Ridge Parkway, Suite 400, Broomfield, CO 80021 ("ZOLL") for ASP Services, associated media, and Instructions. BY CLICKING THE "ACCEPT" BUTTON OR USING THE ASP SERVICES, CUSTOMER IS STATING THAT IT HAS READ AND UNDERSTANDS ALL OF THE TERMS AND CONDITIONS OF THIS ASP AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS, WITHOUT LIMITATION OR QUALIFICATION. IF CUSTOMER DOES NOT AGREE TO THESE TERMS, CUSTOMER WILL NOT ACCESS OR USE THE SERVICES.

In addition, ZOLL may amend this Agreement (including the exhibits hereto) or any additional terms that apply to an ASP Service or the ZOLL Site at any time. Customer should review the most current form of this Agreement regularly. ZOLL will post the most current form at <https://www.zollonline.com/Account/TermsOfService>. ZOLL will endeavor to, but is not required to, notify Customer of any amendments. Amendments will not apply retroactively and will become effective no sooner than thirty (30) days after they are posted. However, changes addressing new functions for an ASP Service or changes made for legal reasons will be effective immediately. Customer understands and acknowledges that its continued use of the ASP Services constitutes its agreement to and acceptance of all such amendments and that absent such effective consent, use of the ASP Services is not authorized.

## Terms and Conditions

### 1. Definitions.

- 1.1. "ASP Services" means the services described on the ZOLL Site that Customer has chosen to receive by following the procedures indicated on the ZOLL Site.
- 1.2. "BAA" means the Business Associate Addendum attached hereto as Exhibit A.
- 1.3. "Confidential Information" means all trade secrets, business and financial information, computer software, machine and operator instructions, business methods, procedures, know-how, and other information that relates to the business or technology of either party and is marked or identified as confidential, or disclosed in circumstances that would lead a reasonable person to believe such information is confidential. The Software and Instructions shall be considered ZOLL's Confidential Information, notwithstanding any failure to mark or identify it as such.
- 1.4. "Fee Based Services" means the ASP Services for which ZOLL charges Customer a fee.
- 1.5. "Instructions" means the instructions for use of the ASP Services and the documentation and users manuals from time to time provided by ZOLL on the ZOLL Site.
- 1.6. "Intellectual Property Rights" means any and all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.
- 1.7. "Software" means the ZOLL software and the ZOLL licensors' and/or suppliers' software that underlies the ASP Services provided to Customer, as modified, updated, and enhanced.
- 1.8. "ZOLL Site" means the web site located at a unique URL to be provided by ZOLL to Customer where end users may download the Software and access and use the ASP Services.

### 2. ASP Services; Payment Obligation.

- 2.1. Provision of ASP Services by ZOLL. Subject to the terms and conditions of this Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer through the ZOLL Site over normal network connections, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling its users and protection of its passwords. The BAA shall apply to the ASP Services.
- 2.2. Support and Maintenance. ZOLL will provide telephone support services during ZOLL's regular business hours for ASP Services questions.
- 2.3. Payment Obligation.. Fee Based Services provided to Customer will require payment of a monthly fee. Customer will be notified of fees and terms of use and payment when Customer first accesses a Fee Based Service. Customer will be required to enter credit card information or other form of payment information before accessing any Fee Based Service.

### 3. License Grant; Restrictions; Ownership.

3.1. License Grant. Subject to the terms and conditions of this Agreement ZOLL grants to Customer, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable license to access and use the ASP Services using the Software, each as made available to Customer through the ZOLL Site, solely for Customer's internal business purposes and solely in accordance with the Instructions.

3.2. Restrictions. Customer shall not, and shall not permit any third party to: (a) modify, adapt, alter, translate, or create derivative works from the ASP Services, the Software or the Instructions; (b) allow any third party access to or use of the ASP Services; (c) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the source code for the Software; or (d) otherwise use or copy the Software or the Instructions or the ASP Services in any manner not expressly permitted.

3.3. Ownership. The Software, the Instructions, the ASP Services, all proprietary technology utilized by ZOLL to perform its obligations under this Agreement, and all Intellectual Property Rights in and to the foregoing, are the exclusive property of ZOLL (or as the case may be its licensors and suppliers). Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

### 4. Customer Content.

As between ZOLL and Customer, and without limiting the rights (if any) of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services ("Customer Content"), provided, however, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

### 5. Warranty Disclaimers.

THE ASP SERVICES ARE PROVIDED "AS IS", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY; ZOLL DOES NOT PROMISE THAT THE ASP SERVICES WILL BE AVAILABLE FOR ANY PERIOD AND ZOLL MAKES NO UP-TIME COMMITMENT. ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS.

5.1. CUSTOMER ACKNOWLEDGES AND AGREES THAT, IN ENTERING INTO THIS CONTRACT, IT HAS NOT RELIED UPON THE FUTURE AVAILABILITY OF ANY NEW OR ENHANCED FEATURE OR FUNCTIONALITY, OR ANY NEW OR ENHANCED PRODUCT OR SERVICE, INCLUDING WITHOUT LIMITATION, UPDATES TO ZOLL'S EXISTING PRODUCTS AND SERVICES. ZOLL'S PERFORMANCE OBLIGATIONS HEREUNDER ARE LIMITED TO THOSE EXPRESSLY ENUMERATED HEREIN, AND PAYMENT FOR ZOLL'S PERFORMANCE OBLIGATIONS SHALL BE DUE AS DESCRIBED HEREIN.

### 6. Limitation of Liability.

In no event will ZOLL be liable for any consequential, indirect, exemplary, special, or incidental damages, OR for any lost data, lost profits OR costs of procurement of substitute goods or

services, arising from or relating to this Agreement, however caused and under any theory of liability (including negligence), even if ZOLL has been advised of the possibility of such damages. ZOLL's total cumulative liability in connection with this Agreement and the Software, whether in contract or tort or otherwise, will not exceed the amount paid TO ZOLL BY CUSTOMER FOR the ASP SERVICES provided UNDER THIS AGREEMENT IN THE PREVIOUS SIX (6) MONTH PERIOD. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability, and Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers.

#### 7. Term and Termination.

7.1. Term. The term of this Agreement ("Term") will begin on the date these terms are accepted by Customer and continue until terminated.

7.2. Termination. Either party may terminate this Agreement with or without cause on 20 days' prior notice to the other.

7.3. Effects of Termination. Upon expiration or termination of this Agreement for any reason: (a) amounts, if any, owed to ZOLL under this Agreement before such termination or expiration will be immediately due and payable, (b) all licensed rights granted in this Agreement will immediately cease to exist; and (c) Customer must promptly discontinue all use of the ASP Services and return or destroy, all copies of the Instructions and/ Software in Customer's possession or control.

#### 8. Confidentiality.

8.1. Protection. Subject to Section 4 hereof, the party receiving Confidential Information ("Receiving Party") from the other party ("Disclosing Party") will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

8.2. Exceptions. The Receiving Party's obligations under Section 8.1 above with respect to any Confidential Information of the Disclosing Party will terminate if and when the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) approved in writing by the Disclosing Party, (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure in writing prior to making such disclosure and

cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

#### 9. Indemnification.

Customer shall indemnify, defend and hold ZOLL harmless of, from and against any and all liabilities, losses, expenses, damages and claims that arise out of Customer's use of the ASP Services or Customer's breach of this Agreement, except to the extent same are due to ZOLL's breach hereof or ZOLL's negligence.

#### 10. General Provisions.

10.1. Compliance with Laws and Export Regulations. Customer shall comply with all applicable laws and regulations concerning its use of the ASP Services, including without limitation if applicable all export and import control laws and regulations. Customer will not use the ASP Services for any purpose in violation of any applicable laws. Customer agrees to defend, indemnify, and hold harmless ZOLL from and against any violation of any applicable laws or regulations by Customer or any of its agents, officers, directors, or employees.

10.2. Compliance Certificate. Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used in accordance with the terms and conditions of this Agreement.

10.3. Assignment. Customer may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party without ZOLL's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ZOLL shall have the right to assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.

10.4. U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Instructions are comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and if provided hereunder are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 (JUN 1995) and 227.7202-3 (JUN 1995).

10.5. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile (fax), or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth above or in the contact information provided by Customer in connection with accepting the terms of this Agreement, and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner; provided, however, that ZOLL's amendments of this Agreement shall be deemed delivered to Customer and Customer shall be deemed notified thereof by ZOLL posting the most current form of this Agreement on the website set forth at the beginning of this Agreement as more particularly provided at the beginning of this Agreement.

10.6. Governing Law and Venue. This Agreement will be governed by and interpreted in accordance with the laws of the State of Colorado without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement shall be brought in a federal or state court in Denver, Colorado, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

10.7. Remedies. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the ASP Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or threatened breach hereof may constitute immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

10.8. Waivers. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

10.9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect.

10.10. Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

10.11. Entire Agreement. This Agreement, including the cover page (if any) and any exhibits hereto, constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral.

10.12. Third Party Access to ZOLL Site on behalf of Customer. If Customer engages a third-party provider approved by ZOLL ("Third-Party Provider") to provide Customer with data management services using Third-Party Provider's product(s) that are integrated with software products (including Software) and/or equipment of ZOLL and/or ZOLL affiliates (the "Third-Party Services"), Customer agrees to promptly notify ZOLL thereof and Customer hereby consents to ZOLL sharing of Customer Content with such Third-Party Provider for the sole purpose of Third-Party Provider's provision of the Third-Party Services. Customer agrees that if Customer wishes to grant such Third-Party Provider access to the ZOLL Site and/or the ASP Services for the purpose of the provision of the Third-Party Services, Customer shall require Third-Party Provider to comply with the terms of this Agreement and Customer agrees to indemnify, defend and hold harmless ZOLL from and against any liabilities, losses, expenses, damages and claims arising from Third-Party Provider's access and use of the ZOLL Site and the ASP Services. Upon termination of Customer's agreement with Third-Party Provider for any reason, Customer agrees to immediately terminate Third-Party Provider's access to the ZOLL Site and the ASP Services and notify ZOLL thereof. Customer represents that Customer has a valid Business Associate Agreement with Third-Party Provider in place for the provision of the Third-Party Services and that the sharing by ZOLL of the Customer Content with Third-Party Provider does not violate any agreement, law, regulation, or other legal standard applicable to Customer. In addition, Customer agrees that the provision of the Third-Party Services by Third-Party Provider to Customer does not make Third-Party Provider a subcontractor business associate of ZOLL.

ZOLL Online Business Associate Agreement

Exhibit A

## Business Associate Addendum

This Business Associate Addendum (this "Addendum") is entered into by and between you ("Covered Entity") and ZOLL Data Systems, ("Business Associate") in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations collectively referred to as "HIPAA") This Addendum amends the terms and conditions of and is hereby incorporated as part of that certain agreement between Covered Entity and Business Associate entitled Application Service Provider Agreement (the "Services Agreement") and attached hereto.

### STATEMENT OF AGREEMENT

§1. Definitions. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HIPAA; provided that PHI shall refer only to protected health information of Covered Entity unless otherwise stated.

§2. Compliance and Agents. Business Associate agrees that to the extent it has access to PHI, Business Associate will fully comply with the requirements of this Addendum with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth in this Addendum. If Covered Entity is required by HIPAA to maintain a Notice of Privacy Practices, Covered Entity shall notify Business Associate of any limitations in such notice to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

§3. Use and Disclosure; Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Addendum, including Section 16 hereof, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Addendum, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Services Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

§4. Safeguards. Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308 - 164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Addendum.

§5. Minimum Necessary. Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.

§6. Report of Improper Use or Disclosure. Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Addendum and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of "unsecured protected health information," as defined in 45 C.F.R. § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Addendum.

§7. Individual Access. In accordance with an individual's right to access to their own PHI in a designated record set under 45 CFR §164.524 and the individual's right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual's representative.

§8. Amendment of and Access to PHI. Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.

§9. Accounting. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual's request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.

§10. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to the U.S. Department of Health and Human Services ("DHHS"), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's compliance with HIPAA.

§11. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate's use or disclosure of PHI.

§12. Compliance with ARRA. Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the American Recovery and Reinvestment Act of 2009 ("ARRA") (P.L. 111-5), including all privacy and security regulations issued under ARRA that apply to Business Associate as and when those regulations are effective.

§13. Term. This Addendum shall take effect on the effective date of the Services Agreement, and shall continue in effect unless and until either party terminates this Addendum or the Services Agreement.

§14. Breach; Termination; Mitigation. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Addendum, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and, if such steps are unsuccessful, Covered Entity may terminate this Addendum. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

§15. Return of PHI. Business Associate agrees that upon termination of this Addendum, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Addendum to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

§16. De-identified Health Information. Business Associate may de-identify any and all PHI and may create a "Limited Data Set" in accordance with 45 C.F.R. § 164.514(b)&(e). Customer acknowledges and agrees that deidentified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

§17. Survival. All representations, covenants, and agreements in or under this Addendum or any other documents executed in connection with the transactions contemplated by this Addendum, shall survive the execution, delivery, and performance of this Addendum and such other documents. The respective rights and obligations of Business Associate under Section 14 of this Addendum shall survive termination or expiration of this Addendum.

§18. Further Assurances; Conflicts. Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this Addendum. The terms and conditions of this Addendum will override and control any conflicting term or condition of the Services Agreement. All non-conflicting terms and conditions of the Service Agreement shall remain in full force and effect. Any ambiguity in this Addendum with respect to the Services Agreement shall be resolved in a manner that will permit Covered Entity to comply with HIPAA.

§19. Applicable Law. The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Addendum and may affect the parties' obligations under this Addendum. The parties agree to take such action as is necessary to amend this Addendum from time in order as is necessary for Covered Entity to comply with HIPAA.

§20. Previously Executed BAAs. For avoidance of doubt, with respect to PHI shared under the Services Agreement, this Addendum supersedes and replaces any business associate agreements or addenda previously executed by the parties, notwithstanding any provisions in such previously-executed business associated agreements or addenda to the contrary.

## BEST AND FINAL PRICE PAGE

*Fee must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, materials, printing, travel and mileage, postage, etc.*

The quantities shown are estimates only and the City reserves the right to increase or decrease amounts as circumstances may require.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL QUANTITY</u>	<u>UNIT PRICE</u>	<u>EXTENDED PRICE</u>	In addition to the one year warranty that comes with the monitor, this pricing includes four years of extended warranty per monitor
1.	Cardiac Monitor (fully equipped)	75 ea	\$34,909.20	\$ 2,618,190.05	
2.	Lithium Ion Battery (additional)	150 ea	\$ 346.50	\$ 51,975.00	
3.	AED (fully equipped)	20 ea	\$ 1,533.00	\$ 30,660.00	
		<u>QUANTITY</u>			
4.	Trade-In Value MRX Monitors	55 48 ea	\$8,534.00	\$409,632.00	
	Trade-In Value MRX Monitors	7 ea	\$3,000.00	\$21,000.00	
5.	Trade-In Value Philips FR3 AEDs	56 ea	\$100.00	\$5,600.00	
<b>GRAND TOTAL</b>				<b>\$2,264,593.05</b>	

Note: fully equipped means all necessary accessories such as carrying case, batteries (including secondary set) cables, finger probes, BP cuff, battery support unit and/or other adjunct required to utilize all functions of the device.

### 1. Additional Accessories, etc. (Information only)

• Monitor Lithium Battery	1 ea	\$ 346.50	\$ 346.50
• AED Battery Replacement	1 ea	\$ 52.50	\$ 52.50
• SpMET(with adjuncts)	70 75ea	\$ 3,920.00	\$ 294,000.00
• SpCO (with adjuncts)	70 75ea	\$ 2,341.50	\$ 175,612.50
• Temperature	70 75ea	\$ 696.50	\$ 52,237.50
• BP Cuff Replacement	1 ea	\$ 36.75	\$ 36.75
• Cable Set Complete	1 ea	\$ 227.50	\$ 227.50
• Defib Pads (set) adult	1 ea	\$ 52.50	\$ 52.50
• Monitor Replacement case	1 ea	\$ 346.50	\$ 346.50
• AED Replacement case	1 ea	\$ 73.50	\$ 73.50

This pricing is for units shipped from the warehouse with these parameters. See below for pricing of upgrades after shipment.

Note: BP Cuff Replacement- include price for different sizes- small, medium, large, extra-large if different cost. ZOLL offers replacement, reusable cuffs, sizing from infant to adult. All sizes are offered at the same price listed above.

Note: Cable Set Complete, as it relates to additional accessories means cardiac 3-lead and 12-lead therapy cables. The pricing listed above is for a 12-Lead Cable set that includes both limb leads and v leads. These can also be purchased separately at the pricing listed below: Limb Leads- \$206.50 each

V Leads- \$206.50 each

3 Leads- \$87.50

\*The following pricing is for the parameter upgrades after shipment of the quoted device.

SpCO (with adjuncts) \$3,164.88 per unit

SpMet (with adjuncts) \$5,225.50 per unit

Temperature \$870.62 per unit



**ZOLL Medical Corporation**

Worldwide Headquarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 249242 V:1**

DATE: July 14, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	601-2221011-01	<p><b>X Series ® Manual Monitor/Defibrillator \$14,995</b>            with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5"( 16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display.</p> <p><b>Accessories Included:</b></p> <ul style="list-style-type: none"> <li>• Six (6) foot 3- Lead ECG cable</li> <li>• MFC cable</li> <li>• MFC CPR connector</li> <li>• A/C power adapter/ battery charger</li> <li>• A/C power cord</li> <li>• One (1) roll printer paper</li> <li>• 6.6 Ah Li-ion battery</li> <li>• Carry case</li> <li>• Declaration of Conformity</li> <li>• Operator's Manual</li> <li>• Quick Reference Guide</li> </ul> <p>• <b>One (1)-year EMS warranty</b></p> <p><b>Advanced Options:</b>  <b>Real CPR Help Expansion Pack \$ 995</b>            CPR Dashboard quantitative depth and rate in real time, release indicator, interruption timer, perfusion performance indicator (PPI)            • See - Thru CPR artifact filtering</p> <p><b>ZOLL Noninvasive Pacing Technology: \$2,550</b></p>	75	\$37,275.00	\$26,092.50	\$1,956,937.50 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 1 Subtotal \$1,956,937.50**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

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TERMS: Net 30 Days

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<b>Masimo Pulse Oximetry</b> <b>SP02 \$1,795</b> • Signal Extraction Technology (SET) • Rainbow SET <b>NIBP Welch Allyn includes: \$3,495</b> • Smartcuff 10 foot Dual Lumen hose • SureBP Reusable Adult Medium Cuff  <b>End Tidal Carbon Dioxide monitoring (ETCO2)</b> <b>Oridion Microstream Technology: \$4,995</b> Order required Microstream tubing sets separately  <b>Interpretative 12- Lead ECG: \$8,450</b> • 12-Lead one step ECG cable- includes 4- Lead limb lead cable and removable precordial 6- Lead set				
2	8000-0330	SpO2 Rainbow Reusable Patient Cable: Connects to LNCS Single Use and Reusable Sensors (4 ft)	150	\$295.00	\$206.50	\$30,975.00 *
3	8000-0294	SpO2 LNCS Adult Reusable Sensor (1 each)	150	\$295.00	\$206.50	\$30,975.00 *
4	8000-0580-01	Six hour rechargeable Smart battery	150	\$495.00	\$346.50	\$51,975.00 *
5	8300-0500-01	SurePower 4 Bay Charging System including 4 Battery Charging adapters	30	\$2,583.00	\$1,808.10	\$54,243.00 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 2 Subtotal \$2,125,105.50**

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 Tel: 520-837-4137

**QUOTATION 249242 V:1**

DATE: July 14, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
6	8300-0002-02	Dual Lumen NIBP Hose, 5 Ft.- These no charge cables are to replace the 10 Ft. hoses that come standard with line 1.	75	\$125.00	No Charge	No Charge	*
7	8300-0002-02	Dual Lumen NIBP Hose, 5 Ft.	75	\$125.00	\$87.50	\$6,562.50	*
8	REUSE-11-2MQ	Adult Cuff, 2-Tube, Twist lock connector	75	\$52.50	\$36.75	\$2,756.25	*
9	8300-0802-01	12-Lead one step ECG cable - AAMI includes 4-Lead trunk cable and removable precordial 6 lead set.	75	\$325.00	\$227.50	\$17,062.50	*
10	8000-000472-01	Multi-Tech Cell Modem Kit, CDMA, Verizon, US	75	\$595.00	\$416.50	\$31,237.50	*
11	8300-0520-01	Filterline Set Adult/Pediatric, Case of 25	16	\$275.00	\$192.50	\$3,080.00	*
12	8300-0524-01	Smart CapnoLine Plus O2 Adult (O2 tubing), Case of 25	16	\$355.00	\$248.50	\$3,976.00	*
13	8000-000901-01	ECG plain white paper- 80mm (pack of 6 rolls)	70	\$24.00	\$16.80	\$1,176.00	*
14	8900-0004	4 ECG electrodes/pouch (120 pouches / 480 electrodes)	4	\$96.00	\$67.20	\$268.80	*

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

Page 3 Subtotal **\$2,191,225.05**

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5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

Worldwide HeadQuarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 249242 V:1**

DATE: July 14, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
15	8900-0400	CPR stat*padz HVP Multi-Function CPR Electrodes - 8 pair/case	20	\$560.00	\$392.00	\$7,840.00	*
16	8900-000220-01	OneStep Pediatric CPR Electrode (8 per case)	20	\$650.00	\$455.00	\$9,100.00	*
17	8300-000676	OneStep Cable, X Series	150	\$425.00	\$297.50	\$44,625.00	*
18	8009-0020	CPR-D Padz and CPR Stat Padz Connector for R Series	150	\$375.00	\$262.50	\$39,375.00	*
19	8778-200044	4 yrs Extended warranty, 1 PM per year, Battery replacement	75	\$5,570.00	\$5,040.00	\$378,000.00	*
20	20100000101011010	AED Plus with Graphical Cover. Includes: LCD screen showing voice prompt messages, device advisory messages, elapsed time, shock count and chest compression bar. Supplied with Public Safety PASS Cover, Softcase, Operator's Guide and (5) five year limited warranty.	20	\$1,995.00	\$1,197.00	\$23,940.00	*
21	8000-0807-01	Type 123 Lithium Batteries, quantity of ten (10) with storage sleeve	40	\$75.00	\$52.50	\$2,100.00	*
22	8900-0400	CPR stat*padz HVP Multi-Function CPR Electrodes - 8 pair/case	5	\$560.00	\$392.00	\$1,960.00	*

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 4 Subtotal \$2,698,165.05**

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\*\*

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
23	8900-0810-01	<b>pedi•padz® II Pediatric Multi-Function Electrodes</b> - Designed for use with the AED Plus. The AED recognizes when pedi•padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. One pair.	40	\$95.00	\$66.50	\$2,660.00 *
24	8008-0050-01	<b>AED Plus Trainer2 Unit.</b> The AED Plus Trainer2 can be used by trainers to train users of the AED Plus. Supplied with wireless Remote Controller, one set of <b>CPR-D</b> training electrodes, one pair of replacement gels, 4 D-Cell batteries, 2 AA batteries, Operators Guide, and a (6) six month limited warranty.	3	\$379.00	No Charge	No Charge *
25	7800-0214	<b>MRX Biphasic w/Pacing, 12 lead + 3 parameters Trade-In-</b> Trade-in value is subject to change after initial purchase.	48		(\$8,534.00)	(\$409,632.00) **
28	7800-0214	<b>MRX Biphasic w/Pacing, 12 lead + 3 parameters Trade-In</b>	7		(\$3,000.00)	(\$21,000.00) **
27	7800-0227	<b>Phillips FR3 Trade-In</b>	56		(\$100.00)	(\$5,600.00) **

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**Page 5 Subtotal \$2,264,593.05**

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DATE: July 14, 2017

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<p>**Trade-In Value valid if all equipment purchased is in good operational and cosmetic condition, and includes all standard accessories. Customer assumes responsibility for shipping trade-in equipment to ZOLL Chelmsford within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.</p> <p><b>*Reflects Discount Pricing.</b></p> <p><b>This quotation has been quoted with payment terms of NET 30. For financing options, please refer to item 30 on the Method of Approach response document.</b></p> <p><b>No Charge Items and Trade Values are only valid for the initial purchase with the City of Tucson for all items within this quotation.</b></p>				
<b>TOTAL</b>						<b>\$2,264,593.05</b>

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Barry Herbert  
 Territory Manager  
 480-689-9362

## ZOLL QUOTATION GENERAL TERMS & CONDITIONS

**1. ACCEPTANCE.** This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract") the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

**2. DELIVERY AND RISK OF LOSS.** Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

**3. TERMS OF PAYMENT.** Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

**4. CREDIT APPROVAL.** All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

**5. TAXES & FEES.** The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

**6. WARRANTY.** (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**7. SOFTWARE LICENSE.** (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth. (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein. (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein. (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation. (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer. (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

**8. DELAYS IN DELIVERY.** ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

**9. LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATION'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

**10. PATENT INDEMNITY.** ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

**11. CLAIMS FOR SHORTAGE.** Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

**12. RETURNS AND CANCELLATION.** (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

**13. APPLICABLE LAW.** This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

**14. COMPLIANCE WITH LAWS.** (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

**16. NON-WAIVER OF DEFAULT.** In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

**16. ASSIGNMENT.** This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

**17. TITLE TO PRODUCTS.** Title to right of possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

### **18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.**

**VETERAN'S EMPLOYMENT** - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

**EMPLOYMENT OF HANDICAPPED** - If this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

**EQUAL OPPORTUNITY EMPLOYMENT** - If this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth at 41 CFR 60-1.40.

**19. VALIDITY OF QUOTATION.** This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

**20. GENERAL.** Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

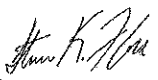
## OFFER AND ACCEPTANCE

### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

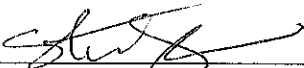
ZOLL Medical Corporation  
Company Name  
269 Mill Road  
Address  
Chelmsford, MA 01824  
City State Zip  
  
Signature of Person Authorized to Sign  
Steven K. Flora  
Printed Name  
Sr. V.P. of North American Sales  
Title

Name: Mike Borkowski  
Title: EMS Strategic Account Manager  
Phone: 480-299-8900  
Fax: 978-421-0015  
E-mail: mborkowski@zoll.com

### ACCEPTANCE OF OFFER

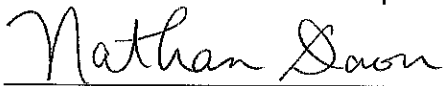
The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 171769 - 01.

Approved as to form this 18<sup>th</sup> day of Sept, 2017.

  
As Tucson City Attorney and not personally

CITY OF TUCSON, a municipal corporation

Awarded this 18<sup>th</sup> day of September, 2017.

  
for Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM  
As Director of Procurement and not personally

## **6. City's Request for Intent to Negotiate**



**CITY OF  
TUCSON**  
DEPARTMENT OF  
PROCUREMENT

July 12, 2017

Amy Coffin  
Bid & Proposals Coordinator  
ZOLL Medical Corporation  
269 Mill Road  
Chelmsford, MA 01824  
[acoffin@zoll.com](mailto:acoffin@zoll.com)

*Sent via electronic mail, this day*

**Subject: Request for Proposal No. 171769 – Cardiac Monitors  
Intent to Negotiate**

Dear Ms. Coffin:

The City of Tucson has completed the evaluation of submittals received in response to the subject solicitation. Based upon the recommendation of the evaluation committee, the City is inviting your firm to enter negotiations. Specifically, the City requests the following:

**1. Best and Final Pricing**

a. The City requests a Best and Final Offer from Zoll Medical Corporation. Please complete the attached Best and Final Price Page.

- In consideration of the cardiac monitor having the functionality of the AEDs, the City has revised the intent of the initial purchase quantities to seventy-five (75) cardiac monitors and twenty (20) AEDs. This is reflected on the Best and Final Price Page.
- The City has also added to the Best and Final Price Page, two line items for trade-in value. The City intends to trade in fifty-five (55) MRX monitors and fifty-six (56) Philips FR3s. Please provide the trade-in value for these items.

b. Please provide a break down (similar to the original quotation) including the 5ft Dual Lumen NIBP Hose in lieu of the 10ft, that incorporates the above mentioned items into a final price proposal.

**2. Special Terms and Conditions: Defective Product**

The City accepts Zoll's proposed modifications in the attached Special Terms and Conditions: Defective Product.

**3. Special Terms and Conditions: Warranty**

The City rejects Zoll's proposed deletion in the attached Special Terms and Conditions: Warranty. Please clarify why Zoll will not provide a warranty for the "fitness for the intended use".

**4. Special Terms and Conditions: Cooperative Purchasing**

Zoll has requested that a signed contract acknowledgement form be required for any agencies utilizing this contract, at time of order. Please provide a copy of this form for the City's review.

**5. Cooperative Administration Fee**

The City requests that the proposed offer be revised to provide a 3% administrative fee to the City on all sales to other agencies, which on average represents the typical administrative fee for cooperative contracts.

ADMINISTRATION • DESIGN AND CONSTRUCTION SERVICES • GOODS AND SERVICES  
MAIL SERVICES • S.A.M.M. (SURPLUS AUCTION MATERIALS MANAGEMENT)  
CITY HALL • 255 W. ALAMEDA • P.O. BOX 27210 • TUCSON, AZ 85726-7210  
(520) 791-4217 • FAX (520) 791-4735 • TTY (520) 791-2639  
[www.tucsonprocurement.com](http://www.tucsonprocurement.com)

**6. Standard Terms and Conditions: Contract Amendments**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Contract Amendments.

**7. Standard Terms and Conditions: Default in One Installment to Constitute Total Breach**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Default in One Installment to Constitute Total Breach.

**8. Standard Terms and Conditions: Exclusive Possession**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Exclusive Possession.

**9. Standard Terms and Conditions: Indemnification**

The City denies the modification to the Standard Terms and Conditions: Indemnification. The original language published within the Request for Proposal shall endure without change or modification. Please confirm your understanding of this clause.

**10. Standard Terms and Conditions: Inspection and Acceptance**

The City accepts Zoll's proposed modifications in the attached Standard Terms and Conditions: Inspection and Acceptance.

**11. Standard Terms and Conditions: Termination of Contract**

The City accepts the addition of "and after providing the Contracts an adequate opportunity to cure." to the first sentence of the second paragraph. The City does not agree to remove "In the opinion of the City" throughout this term and condition. Please confirm your agreement to retain the phrase "In the opinion of the City...".

**12. End User License Agreement**

During the presentation, Zoll stated that users of the website would agree to an End User License Agreement for access to the website. Please provide a copy of that agreement for the City's review and consideration.

**13. Offer and Acceptance Page**

The City does not accept the modification made to the Offer and Acceptance Page. Please sign and return the attached Offer and Acceptance Page.

This Notice of Intent to Negotiate is not an intent to award a contract and does not establish a contractual relationship between the firm and the City. In the event that the City is not able to negotiate a satisfactory contract with the firm, the City will terminate negotiations.

Please submit a written response to my attention via e-mail to [Jenn.myers@tucsonaz.gov](mailto:Jenn.myers@tucsonaz.gov) on or before **Friday, July 14, 2017 at 4:00 PM**. Please contact me via e-mail or at (520) 837-4137 with questions regarding the items above.

Sincerely,



Jenn Myers  
Senior Contract Officer

Attachments: Four (4)  
Best and Final Price Page  
Offer and Acceptance  
Copy of Zoll's proposed Special Terms and Conditions  
Copy of Zoll's proposed Standard Terms and Conditions

Cc: Mike Borkowski, [mborkowski@zoll.com](mailto:mborkowski@zoll.com)  
Ryan Grulke, [rgrulke@zoll.com](mailto:rgrulke@zoll.com)

## OFFER AND ACCEPTANCE

### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

\_\_\_\_\_  
Company Name

Name: \_\_\_\_\_

\_\_\_\_\_  
Address

Title: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Authorized to Sign

Fax: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

E-mail: \_\_\_\_\_

\_\_\_\_\_  
Title

### ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 171769 - \_\_\_\_\_.

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF TUCSON**, a municipal corporation

Awarded this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
As Tucson City Attorney and not personally

\_\_\_\_\_  
Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM  
As Director of Procurement and not personally

## BEST AND FINAL PRICE PAGE

*Fee must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, materials, printing, travel and mileage, postage, etc.*

The quantities shown are estimates only and the City reserves the right to increase or decrease amounts as circumstances may require.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL QUANTITY</u>	<u>UNIT PRICE</u>	<u>EXTENDED PRICE</u>
1.	Cardiac Monitor (fully equipped)	75 ea	\$ _____	\$ _____
2.	Lithium Ion Battery (additional)	150 ea	\$ _____	\$ _____
3.	AED (fully equipped)	20 ea	\$ _____	\$ _____
		<u>QUANTITY</u>		
4.	Trade-In Value MRX Monitors	55 ea		\$( _____ )
5.	Trade-In Value Philips FR3 AEDs	56 ea		\$( _____ )
			<b>GRAND TOTAL \$</b>	_____

Note: fully equipped means all necessary accessories such as carrying case, batteries (including secondary set) cables, finger probes, BP cuff, battery support unit and/or other adjunct required to utilize all functions of the device.

1. Additional Accessories, etc. (Information only)				
•	Monitor Lithium Battery	1 ea	\$ _____	\$ _____
•	AED Battery Replacement	1 ea	\$ _____	\$ _____
•	SpMET(with adjuncts)	70 ea	\$ _____	\$ _____
•	SpCO (with adjuncts)	70 ea	\$ _____	\$ _____
•	Temperature	70 ea	\$ _____	\$ _____
•	BP Cuff Replacement	1 ea	\$ _____	\$ _____
•	Cable Set Complete	1 ea	\$ _____	\$ _____
•	Defib Pads (set)	1 ea	\$ _____	\$ _____
•	Monitor Replacement case	1 ea	\$ _____	\$ _____
•	AED Replacement case	1 ea	\$ _____	\$ _____

### STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
7. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
8. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
9. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
10. **CONTRACT AMENDMENTS:** The Procurement Department, with mutual written agreement by Contractor, has the sole authority to:
  - A. Amend the contract or enter into supplemental verbal or written agreements;
  - B. Grant time extensions or contract renewals;
  - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

11. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

12. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, and after the Contractor has been provided an opportunity to cure, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
13. **DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
14. **EQUAL PAY:** The Contractor shall comply with the applicable provisions of the Equal Pay Act of 1963 (Pub.L. 88-38, 29 U.S.C. section 208(d)); Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352, 42 U.S.C. 2000e *et seq.*; and, the Lily Ledbetter Fair Pay Act of 2009 (Pub.L. 111-2).
15. **EXCLUSIVE POSSESSION:** All services, information, ~~computer program elements~~, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
16. **FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.
- If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.
17. **FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.
- If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
18. **GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
19. **HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.
20. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and

employees from and against all allegations, demands, proceedings, suits, actions, claims brought by third parties, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, reasonable attorney fees, and court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, to the extent arising directly from or out of or resulting from (a) any negligent actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or a defect in products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, or (b) infringement of third-party patents or copyrights caused by City of Tucson's use of such products in accordance with their written operating instructions. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractor agrees to waive all rights of subrogation against the City of Tucson, its agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54. 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

21. **INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

22. **INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor in accordance with the Contractors Warranty & Return Policies. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.
23. **INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.
24. **ISRAEL BOYCOTT DIVESTMENTS:** Acceptance of the contract warrants that the vendor is in compliance with A.R.S. § 35-393 and does not participate in a boycott of Israel as that term is defined within A.R.S. § 35-393.
25. **LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.
26. **LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.
27. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.
28. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
256 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

or services from another source when necessary.

REQUEST FOR PROPOSAL NO. 171769  
PAGE 21 OF 24  
SENIOR CONTRACT OFFICER: JENN MYERS  
PH: (520) 837-4137 / FAX: (520) 781-4735

**29. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

**30. PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

**31. PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

**32. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.

**33. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.

**34. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.

**35. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.

**36. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

**37. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.

**38. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.

**39. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All

subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

40. **SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
41. **TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, ~~and after providing the Contractor an adequate opportunity to cure.~~ The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

~~In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;~~

~~In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;~~

~~In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;~~

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

~~In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;~~

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

42. **TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
43. **WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

### SPECIAL TERMS AND CONDITIONS

- 1. SAFETY STANDARDS:** The Bidder/Offeror shall certify that the equipment being bid/offered is designed and includes operating features that comply with the safety standard promulgated under the Federal Occupational Safety and Health Act (OSHA). If the equipment being bid/offered is governed by OSHA regulations the successful Bidder/Offeror is required to submit a certificate stating that such equipment complies with applicable OSHA standards.

During the term of this Contract, should there be modifications in federal and/or state laws and regulations regarding safety standards or other specifications and marketing procedures for the contracted item(s), the City of Tucson reserves the right to amend the Contract to provide for the delivery of items which conform to such changes. As a result, the City will negotiate any necessary price changes with the Contractor. Should negotiations fail the City may cancel the Contract for the affected items.

- 2. DEFECTIVE PRODUCT:** All defective products shall be at the Contractor's sole discretion, be repaired, replaced and/or exchanged by the Contractor. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. All replacement products must be received by the City within seven (7) days of initial notification. Contractor will supply a loaner for any equipment returned if it cannot be repaired or replaced within seven (7) days of initial notification.
- 3. WARRANTY:** Bidder/Offeror shall warrant that all equipment and parts furnished in their bid/offer are newly manufactured and free from defects in material and workmanship for no less than one (1) year from the date the equipment is delivered or installed. Warranty shall also guarantee accepted trade standards of quality, fitness for the intended uses, and conformance to promises or specified specifications. No other express or implied warranty shall eliminate the Contractor's liability as stated herein.
- 4. EQUIPMENT/RECALL NOTICES:** In the event of any recall notice, technical service bulletin, or other important notification affecting equipment purchased from this contract, a notice shall be sent to the Contract Representative. It shall be the responsibility of the contractors to assure that all recall notices are sent directly to the agencies Contract Representative.
- 5. FOB DESTINATION FREIGHT PREPAID:** Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.
- 6. PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.
- 7. TERM AND RENEWAL:** The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

8. **COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See [http://www.tucsonprocurement.com/coop\\_partners.aspx](http://www.tucsonprocurement.com/coop_partners.aspx) and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf> for a listing of participating agencies. The parties agree that these lists are subject to change.

Commented [AC2]: A signed contract acknowledgment form will be required for any of these agencies utilizing this contract, at time of order.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

## **7. ZOLL's Response to RFP# 171769**


## OFFER AND ACCEPTANCE

### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

ZOLL Medical Corporation  
Company Name  
269 Mill Road  
Address  
Chelmsford, MA 01824  
City State Zip  
  
Signature of Person Authorized to Sign  
Steven K. Flora  
Printed Name  
Sr. V.P. of North American Sales  
Title

Name: Mike Borkowski  
Title: EMS Strategic Account Manager  
Phone: 480-299-8900  
Fax: 978-421-0015  
E-mail: mborkowski@zoll.com

### ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 171769 -

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF TUCSON**, a municipal corporation

Awarded this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
As Tucson City Attorney and not personally

\_\_\_\_\_  
Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM  
As Director of Procurement and not personally



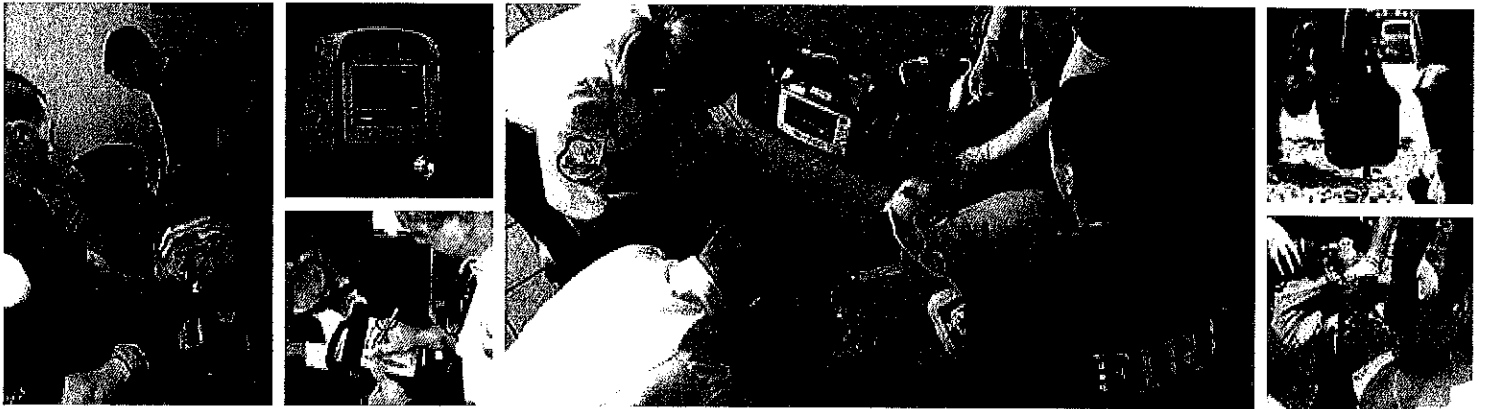
269 Mill Road  
Chelmsford, Massachusetts 01824-4105  
978-421-9655 (main)  
978-421-0025 (fax)  
www.zoll.com

**ZOLL Medical Corporation's Response to The City of Tucson's Request for Proposal# 171769-  
Cardiac Monitors due June 14, 2017 at 4:00p.m.**

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**ZOLL**®



## Section I- Cover Letter



269 Mill Road  
Chelmsford, Massachusetts 01824-4105  
978-421-9655 (main)  
978-421-0025 (fax)  
www.zoll.com

June 12, 2017

City of Tucson Department of Procurement  
255 W. Alameda, 6<sup>th</sup> Floor  
Tucson, AZ 85701

RE: Request for Proposal# 171769- Cardiac Monitors

Dear Sir/Ma'am,

ZOLL® Medical Corporation ("ZOLL") is pleased to provide our response to your Request for Proposal# 171769- Cardiac Monitors due June 14, 2017 at 4:00 p.m.

ZOLL manufactures and markets an integrated line of proprietary, non-invasive resuscitation devices and disposable electrodes. ZOLL's products are used in hospitals, by emergency medical services (EMS) personnel, and in public access environments to provide lifesaving pacing and defibrillation to patients suffering cardiac arrest, and for the treatment of patients with life-threatening cardiac arrhythmias. ZOLL also designs and markets software that automates collection and management of both clinical and non-clinical data.

Our proposal includes the following:

- Bid Documents, completed & signed, with exceptions or clarifications marked as redlines. *This section also includes the Addendum and required pricing information*
- Method of Approach
- Qualifications & Experience
- ZOLL Quotation
- Implementation Plan
  - Project Plan
  - X Series Skills Competency
  - LEAP Program
  - eLearning Brochure
- Return, Warranty & Technical Support Information
  - Return Policy
  - EMS One (1) Year Limited Product Warranty
  - AED Plus Five (5) Year Warranty
  - Free Extended Warranty AED Plus
  - On-Site Technical Support & Services
- ZOLL Product Specifications & Literature

Thank you for the opportunity to respond to this bid request. We stand ready to serve the needs of the City of Tucson, and look forward to the prospect of a long and mutually rewarding relationship.

If you need any further information or assistance, please do not hesitate to call me at 480-299-8900 (mobile) or email me, [mborkowski@zoll.com](mailto:mborkowski@zoll.com).

Regards,

Mike Borkowski  
EMS Strategic Account Manager

MB/ajc  
Enclosures

**ZOLL®**



## Section II- Original Bid Documents

## CITY OF TUCSON REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER: 171769  
PROPOSAL DUE DATE: Wednesday, June 14, 2017, AT 4:00 P.M.,  
Local AZ Time  
PROPOSAL SUBMITTAL LOCATION: Department of Procurement  
255 W. Alameda, 6<sup>th</sup> Floor, Tucson, AZ 85701  
MATERIAL OR SERVICE: Cardiac Monitors  
PRE-PROPOSAL CONFERENCE DATE: Thursday, June 01, 2017  
TIME: 2:00 P.M., Local AZ Time  
LOCATION: City Hall, Procurement 6<sup>th</sup> Floor East Conference  
Room, 255 W. Alameda, Tucson, AZ 85701  
SENIOR CONTRACT OFFICER: Jenn Myers  
TELEPHONE NUMBER: (520) 837-4137  
Jenn.Myers@tucsonaz.gov

A copy of this solicitation and possible future amendments may be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number. The City does not mail out Notices of available solicitations via the U.S. Postal Service. Email notifications are sent to those interested offerors who are registered with us and who have selected email as their preferred delivery method. To register, please visit [www.tucsonprocurement.com](http://www.tucsonprocurement.com), click on Vendors, then click on Vendor Registration. To update an existing record, click on Vendors, click on What's New?, and read the section titled "Notice of Solicitations." You may also call (520) 791-4217 if you have questions.

Competitive sealed proposals for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

Proposals must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Proposals must be submitted in a sealed envelope. The Request for Proposal number and the offeror's name and address should be clearly indicated on the outside of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

\*\*\*\*ALERT\*\*\*\*

Effective July 1, 2014, the City of Tucson's Small Business Enterprise (SBE) and Disadvantaged Business Enterprise (DBE) Program has moved to the Department of Procurement and has become the Business Enterprise and Compliance Program. To contact them, please call (520) 837-4000 or visit the website at [http://www.tucsonprocurement.com/Bidders\\_Page.aspx](http://www.tucsonprocurement.com/Bidders_Page.aspx) and click on SBE or DBE.

JM/car

PUBLISH DATE: Monday, May 22, 2017

Revised 12/2016

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

REQUEST FOR PROPOSAL NO. 171769  
PAGE 2 OF 24  
SENIOR CONTRACT OFFICER: JENN MYERS  
PH: (520) 837-4137 / FAX: (520) 791-4735

## INTRODUCTION

The City of Tucson intends to establish an annual requirements contract for the purchase of **CARDIAC MONITORS AND AUTOMATED ELECTRONIC DEFIBRILLATORS (AED)**. This contract will include all accessories, supplies and services necessary to operate the devices.

Tucson Fire Department currently operates 55 cardiac monitors and 56 AED's. This equipment is an important part of their medical treatment services. The Tucson Fire Department intends to purchase up to 70 new cardiac monitors and up to 60 new AEDs for use in a pre-hospital work environment. These new devices will replace the existing inventory.

## SCOPE OF WORK

### TECHNICAL SPECIFICATIONS

The devices must include all necessary cables, print capabilities, defibrillation and pacing accessories, Li-ion batteries, carrying case, and other accessories needed to utilize all required features.

#### Required Features:

##### Cardiac Monitor (fully equipped shall include all listed features)

- 12 Lead EKG
- SpO2
- ET/CO2 with Capnography waveform
- NIBP
- Pulse Rate
- CPR device (integrate with monitor) to measure CPR quality, depth, rate, interruptions, and release
- AED mode for pediatric patients
- MAP (mean arterial pressure)
- Pediatric functionality (Ability to configure monitor for both adult and pediatric patients)
- All necessary storage and carrying bags.
- All necessary battery and battery support units for each device
- Secondary battery or batteries to be used as in-field back ups
- All required cables, connectors, or other adjuncts necessary to operate and download the device
- Maintenance package and warranty of no less than three (3) years past product's availability.
- Battery maintenance, reconditioning and replacement program and equipment.
- Pacing
- Defibrillation (Biphasic)
- Serial EKG
- Temperature (optional feature)
- SpCO (optional feature)
- SpMet (optional feature)

##### Please provide the following information:

- Weight fully loaded with all features and supplies: 11.7 lbs. with paper and battery installed.
- Dimensions with all required case components: 8.9" x 10.4" x 7.9" (does not include carry case)
- Battery requirement: Qty 1 Rechargeable lithium-ion battery, 11.1 Vdc, 6.6 Ah, 73 Wh

##### AED

- Rhythm display
- Adult and Pediatric Use
- Pads integrate with Cardiac Monitor
- All necessary storage and carrying bags.
- All necessary battery and battery support units for each device
- Secondary battery or batteries if required

##### Please provide the following information:

- Weight fully loaded with all adjuncts and supplies: 6.7 lbs.
- Dimensions with all required case components: 5.25" x 9.50" x 11.50" (does not include carry case)
- Battery requirement: Qty 10 non-proprietary Duracel Lithium 123A batteries.

## SCOPE OF WORK

### Data Collection and Management

1. Data from the cardiac monitor and AED shall be retrievable through either a wireless or wired option from the device.
2. Data from the cardiac monitor and AED shall automatically upload to an enterprise records management system when connected to a network.
3. Cardiac Arrest and 12 lead data shall be accessible through an enterprise records management system for research and Public Records Requests.
4. Both the cardiac monitor and the AED devices shall have the ability to upload patient assessment and intervention actions through a wireless or wired option for medical records reports, quality control, and quality improvement programs.
5. Contractor shall provide any accessories, hardware and/or software systems necessary for the Fire Department to readily retrieve, transfer and/or upload the data.
6. The enterprise level records management system should be accessible via the web, be HIPAA compliant, and allow for role dependent secure access.
7. System should have an existing interface with Zoll's RescueNet Tablet ePCR system.
8. All data must reside within the United States of America at all times with providers that are certified to host medical data.
9. Records Management system must have ability to show CPR "report card" indicating quality of CPR, depth, rate, interruptions, and release.
10. Ability to transmit 12-leads from the field.
11. Provide data storage solution (either a physical server or cloud solution) for data management systems.

### Service/Maintenance

1. Contractor shall provide warranty and service contract for cardiac monitor, AEDs, adjuncts and batteries.
2. Contractor shall provide on-site service/maintenance on devices as recommended by the product manufacturer with a minimum of 1-per year per device.
3. Contractor shall provide manufacturer certified service technicians to perform repairs and service on the selected monitor and AED
4. Contractor shall make available loaner devices at no cost as needed for department owned devices out of service for extended repair.
5. Contractor shall include software updates for both the devices and the records management system free of charge as part of the maintenance agreement.
6. Contractor shall provide a written process to be instituted following an equipment malfunction. Process shall be inclusive of operator actions, vendor actions and notification responsibilities.

### Training

1. Contractor shall provide onsite training to TFD personnel by authorized vendor representatives.
2. Training shall include in-house operator level training for up to 250 paramedics. This training shall cover all operational functions of the device(s).
3. Training shall include supervisor training for up to 20 supervisors. This training shall include basic device configuration for crew identification, hospital destination, and any other field/user level adjustments necessary to update device(s) and any other more advanced administrative functions.
4. Training shall include systems administration for the records management system and device configuration and integration.
5. Training may be provided through a train-the-trainer model as agreed upon by TFD.
6. Contractor shall provide a suitable on-line class with all training material. This class could augment initial training, at TFD's discretion, as well as be used for future employees' training.
7. Training shall include the process(es) to be followed post device malfunction.

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

REQUEST FOR PROPOSAL NO. 171769  
PAGE 5 OF 24  
SENIOR CONTRACT OFFICER: JENN MYERS  
PH: (520) 837-4137 / FAX: (520) 791-4735

**Implementation**

1. Contractor shall work with TFD to provide an implementation plan and time line for TFD to transition into the new devices to include device delivery, configuration, training, deployment, go/no go check sheet, user confidence determination, and acceptance.
2. Contractor shall provide contingency plan for failed implementation.

**Lease to Purchase**

1. Contractor shall offer an optional lease to purchase program. This program shall include a minimum of a two (2) year lease to purchase option. All terms of the lease shall be provided with the response to the RFP. The terms shall not include a prepayment penalty.

## INSTRUCTIONS TO OFFERORS

### 1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

For purposes of this solicitation and subsequent contract, the following definitions shall apply:

**City:** The City of Tucson, Arizona

**Contract:** The legal agreement executed between the City and the Contractor/Consultant. The Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.

**Contractor/Consultant:** The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.

**Contract Representative:** The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and is responsible for monitoring and overseeing the Contractor's performance under this Contract.

**Director of Procurement:** The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

**May:** Indicates something that is not mandatory but permissible.

**Offeror:** The individual, partnership, or corporation who submits a proposal in response to a solicitation.

**Shall, Will, Must:** Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.

**Should:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

2. **PRE-PROPOSAL CONFERENCE:** If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.
3. **INQUIRIES:** Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.
4. **AMENDMENT OF REQUEST FOR PROPOSAL:** The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.
5. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.
6. **PREPARATION OF PROPOSAL:**
  - A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
  - B. At a minimum, your proposal should include the signed Offer and Acceptance form, signed copies of any solicitation amendments, completed Price Page and your response to all evaluation criteria.
  - C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.

- D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
  - E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
  - F. Periods of time, stated as a number of days, shall be in calendar days.
  - G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
  - H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
  - I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.
7. **PAYMENT DISCOUNTS:** Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period. The payment discount shall apply to all purchases and to all payment methods.
8. **TAXES:** The City of Tucson is exempt from federal excise tax, including the federal transportation tax.
9. **PROPOSAL/SUBMITTAL FORMAT:** An original and 4 copies (5 total) of each proposal should be submitted on the forms and in the format specified in the RFP. Offerors shall also submit one electronic copy of the proposal on cd, disc or zip disc in MS Office 2003 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. The original copy of the proposal should be clearly labeled "Original" and shall be single-sided, three hole punched and in a binder. The material should be in sequence and related to the RFP. The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's response to the Evaluation Criteria including the completed Price Page. Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.
10. **EXCEPTIONS TO CONTRACT PROVISIONS:** A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.
11. **PUBLIC RECORD:** All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.
12. **CONFIDENTIAL INFORMATION:** The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.
13. **CERTIFICATION:** By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:
- A. The submission of the offer did not involve collusion or other anti-competitive practices.
  - B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
  - C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
  - D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.

14. **WHERE TO SUBMIT PROPOSALS:** In order to be considered, the Offeror must complete and submit its proposal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The Offeror's proposal shall be submitted in a sealed envelope. The words "SEALED PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.
15. **LATE PROPOSALS:** Late proposals will be rejected.
16. **OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.
17. **WITHDRAWAL OF PROPOSAL:** At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
18. **DISCUSSIONS:** The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
19. **TAX OFFSET POLICY:** If applicable, in evaluating price proposals, the City shall include the amount of applicable business privilege tax, except that the amount of the City of Tucson business privilege tax shall not be included in the evaluation.
20. **CONTRACT NEGOTIATIONS:** Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).
21. **VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.
22. **CITY OF TUCSON BUSINESS LICENSE:** It is the responsibility of the Contractor to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email at [tax-license@tucsonaz.gov](mailto:tax-license@tucsonaz.gov).
23. **UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.
24. **AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:  
(1) waive any immaterial defect or informality; or  
(2) reject any or all proposals, or portions thereof; or  
(3) reissue the Request for Proposal.
- A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.
25. **PROPOSAL RESULTS:** The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

REQUEST FOR PROPOSAL NO. 171769  
PAGE 9 OF 24  
SENIOR CONTRACT OFFICER: JENN MYERS  
PH: (520) 837-4137 / FAX: (520) 791-4735

26. **PROTESTS:** A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Proposal shall be received at the Department of Procurement not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:
- A. The name, address, and telephone number of the protestant;
  - B. The signature of the protestant or its representative;
  - C. Identification of the Request for Proposal or Contract number;
  - D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
  - E. The form of relief requested.

## LIVING WAGE REQUIREMENT

Chapter 28, Article XIV of the Tucson Procurement Code requires that a living wage be paid to certain employees of Contractors and their applicable subcontractors who are performing services for the City of Tucson. This solicitation, and the resulting Contract, is subject to the referenced Article. By signing the Offer and Acceptance page, Bidder/Offeror agrees to comply with the requirements of the Article.

In accordance with Sec. 28-155 of the Tucson Procurement Code, an eligible employee is defined as an employee of the Contractor or their subcontractor who:

- (a) is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation;
- (b) expends chargeable time providing services to the City and on City property;
- (c) is at least sixteen (16) years of age.

Eligible employees shall be paid no less than the living wage for the time they spend providing services to the City on City property. In accordance with Sec. 28-157 of the Tucson Procurement Code, the living wage is as follows:

- If health benefits are offered, and if the Contractor pays no less than fifty (50) percent of the eligible employee's health benefits premium, a wage of no less than \$10.39 per hour; or
- If no health benefits are offered, or if the Contractor pays less than fifty (50) percent of the eligible employee's health benefits premium, a wage of no less than \$11.62 per hour.

Proof of compliance with this policy shall be provided by the successful Bidder/Offeror upon notification by the City of its intent to award a Contract.

Notwithstanding the Severability clause under the Standard Terms and Conditions section of this document, if the provisions of this clause become unenforceable for any reason, the City reserves the right to terminate this Contract without penalty or liability. In the event the City negotiates an adjustment to the terms, conditions, or price acceptable to the parties, then this Contract shall continue until expiration.

In accordance with Sec. 28-158 of the Tucson Procurement Code, the following shall apply to compliance with wage requirement:

The City's Director of Procurement shall monitor compliance, including the investigation of claimed violations, and may promulgate administrative rules and regulations to implement and enforce this Article. In the event of any violation of the provisions set forth in this Article, the responsible Contractor and any applicable subcontractors shall be liable for the unpaid wages and shall pay the eligible employee any amounts underpaid. The City's Director of Procurement is additionally authorized to take any one or more of the following remedies in the event of a written determination of noncompliance:

- (a) Liquidated damages paid to the City in the amount of \$50.00 for each incidence of non-compliance for each day of non-compliance and/or each day it continues;
- (b) Suspension of further payments under the Contract until the violation has ceased;
- (c) Suspend and/or terminate the Contract for cause; and/or
- (d) Debar or suspend the Contractor or subcontractor from future City contracts pursuant to Tucson Procurement Code, Chapter 28, Article IX.

Protests or appeals of the Director's remedies for non-compliance shall be in accordance with Article IX.

In accordance with Sec. 28-159 of the Tucson Procurement Code, the following shall apply to records:

- (a) The Contractor and any applicable subcontractor shall make the records required available for inspection, copying, or transcription by authorized representatives of the City's Director of

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

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PH: (520) 837-4137 / FAX: (520) 791-4735

Procurement, and shall permit such representatives to interview employees during working hours on the job. If the Contractor and any applicable subcontractor fails to submit the required records or make them available, the Director may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to Article IX.

- (b) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all eligible employees. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

All inquiries regarding the Living Wage program may be directed to the Contract Officer responsible for this solicitation.

**CITY OF TUCSON  
CERTIFICATION OF LIVING WAGE PAYMENTS**

*(This form must be completed by the Contractor and each applicable subcontractor.)*

Contract Number: 171769

Contractor or Sub Name: ZOLL Medical Corporation

**(Please Check Only One of the Following Two Options)**

I do hereby agree to pay all eligible employees working on the above-referenced contract a minimum of \$10.39 per hour and provide health benefits. I also agree to pay at least 50% of the eligible employees' health benefits premium. Our firm's health insurance provider(s) are listed below:

Name of Health Insurance Company: Blue Cross Blue Shield of Massachusetts

Address: P.O. Box 986030, Boston, MA 02298

Telephone: 800-952-4196

Fax Number: \_\_\_\_\_

Plan or Program Number: 002340198

Monthly premium paid by employer: 80% Monthly premium paid by employee 20%

Name of Health Insurance Company: Blue Cross Blue Shield of Massachusetts

Address: P.O. Box 986030, Boston, MA 02298

Telephone: 800-952-4196


Fax Number: \_\_\_\_\_

Plan or Program Number: 002344547

Monthly premium paid by employer: 80% Monthly premium paid by employee 20%

\_\_\_\_\_ I do hereby agree to pay all eligible employees working on the above-referenced contract a minimum of \$11.62 per hour. I **do not** offer health benefits to eligible employees working on this contract and/or I **do not** pay at least 50% of the eligible employees' health benefits premium.

ZOLL Medical Corporation  
(Contractor/Sub-Contractor Name)

by   
(Signature)

June 12, 2017  
(Date)

Maureen Callahan, Director of Human Resources  
(Title)

## PROPOSAL EVALUATION REQUIREMENTS

### I. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

- A. Method of Approach
- B. Qualifications & Experience
- C. Price Proposal

### II. REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested and must contain, at a minimum, the following:

#### A. Method of Approach

1. Offeror shall prepare a detailed Method of Approach to the Scope of Work, which clearly identifies the services proposed to be performed by the Offeror. This section should confirm Offeror's understanding of the RFP and the needs of the Tucson Fire Department. This should address in depth how Offeror plans to meet the requirements of each of the services and activities as outlined in the Scope of Work of the RFP. The method and approach for each service should be addressed in a manner that reflects understanding and commitment to providing services as needed in a professional manner in the specified time frame.
2. Describe the products/brands that you are offering. Please provide product brochure, descriptive literature, and/or a product catalog
3. Describe the ordering process Tucson Fire employees should follow.
4. Describe any alternative methods for purchase, such as Internet ordering
5. Provide a method for delivery of products.
6. Provide a description of proposed quality control practices in addition to the requirements described in the Scope of Work.
7. Describe how you will keep the City updated on all updated technology.
8. Describe how data will be collected, stored and retrieved for use by the Tucson Fire Department.
9. Describe how CPR data is collected including devices or adjuncts required to collect CPR data, how the data is stored, transferred, and what software is required to retrieve the data for QA purposed and public record release.
10. Describe each step from turning on the device to capturing and storing a 12 lead, including application and use of the CPR adjuncts and other accessory devices. This must include entering a patient's name.
11. Describe the warranty offered on devices including any limitation to warranty repairs and or replacement.
12. Describe the maintenance on software systems. Submit any Software License Agreements, Software Maintenance Agreements, Service Level Agreements, etc. for the City's consideration. Any agreement that is not submitted prior to contract award may not be considered after contract award.
13. Describe the user management and user definition for the records management system.
14. Describe how devices get assigned to users.
15. Describe how devices get subscribed to the server/cloud level system.
16. Describe your backup and recovery approach.
17. Describe your device security approach.
18. Describe your server/cloud access management system.
19. Describe how a specific set of data (i.e., 12 Lead can be associated with a patient from the TabletPCR system.
20. Describe the training that will be provided by the Contractor to TFD personnel.
21. Describe the implementation plan and time line for TFD.

22. Describe how offeror shall repair/maintain devices on City property including the turnaround time when calls are made by TFD personnel for maintenance including processing, timelines and associated cost for repairs.
23. Describe how loaner devices will be provided.
24. Describe the weight of the devices.
25. Describe the connectivity options for the devices.
26. Describe how data will be compatible with the Zoll RescueNet TabletPCR application. Please specify how this integration would work.
27. Please describe how you would enable an interface with Zoll's RescueNet TablePCR system if it does not yet exist.
28. Contractor shall describe cloud storage options including cloud storage capability, download and access process, record retrieval, records interface with EPCR, and data retention period.
29. If a cloud based solution is offered how will you manage your backups and ensure availability? Where are your primary and secondary data centers.
30. Provide details and terms of leasing options.

**B. Qualifications & Experience**

1. Provide a general overview of your company, including number of years in business, corporate headquarters location, etc. Provide a brief history of the organization.
2. Provide resumes and/or biographies for all key personnel, including supervisors, who will be assigned to this contract.
3. Indicate the office locations of the Key Personnel to be assigned to the account and identify the lead person.
4. Provide at least three (3) references for work that is similar in scope to the Scope of Work of this contract. Preferably, the City seeks 3 references from fire agencies that are utilizing the same devices proposed herein, as well as the Zoll EPCR. For each reference, include name, telephone number, and email address of contact person.
5. If the use of subcontractors is proposed, provide the information requested in items 1 through 4 above for each subcontractor.
6. Offerors who submit a proposal as a manufacturer's representative must include a letter from each manufacturer involved. The letter shall certify that the vendor is authorized to provide the specific products presented, that the vendor is authorized to submit a proposal on such products, and guarantees that should the vendor fail to fulfill any obligations established as a result of a Contract award, the manufacturer, upon assignment by the City, will either assume such obligations or provide an alternate authorized vendor for the balance of the Contract period. In the event of such an assignment, all other terms and conditions of the Contract shall remain the same.
7. Describe any specific ongoing or open FDA inquiries into products proposed or accessories to products proposed.
8. Describe any general ongoing or open FDA inquiries that could impact your ability to service this contract.

**C. Price Proposal**

1. Provide price proposal as requested on the Price Page attached herein.
2. As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by 0%, if payment is made within 30 days. These payment terms shall apply to all purchases and to all payment methods.
3. Cooperative Purchasing Program: Will your firm provide the City of Tucson, as the lead agency on this regional contract, a rebate in the form of a percentage of sales based upon the other agencies sales?

\_\_\_\_\_ Yes  No If yes, state proposed percentage: \_\_\_\_\_ 0%

4. Will payment be accepted via commercial credit card?  Yes \_\_\_\_\_ No
- a. If yes, can commercial payment(s) be made online? \_\_\_\_\_ Yes  No
- b. Will a third party be processing the commercial credit card payment(s)? \_\_\_\_\_ Yes  No
- c. If yes, indicate the flat fee per transaction \$ N/A (as allowable, per Section 5.2.E of Visa Operating Regulations).
- d. If "no" to above, will consideration be given to accept the card? \_\_\_\_\_ Yes  No
5. Does your firm have a City of Tucson Business License? \_\_\_\_\_ Yes  No \_\_\_\_\_  
If yes, please provide a copy of your City of Tucson Business license.

Commented [AC1]: ZOLL submitted our application for a business license with the City of Tucson on May 31, 2017. The confirmation email states that it takes 2-4 weeks to receive this license. ZOLL has been provided with a temporary account number of 3052199.

III. GENERAL

A. Shortlist:

The City reserves the right to shortlist the offerors on the stated criteria. However, the City may determine that shortlisting is not necessary.

B. Interviews:

The City reserves the right to conduct interviews with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview process.

C. Additional Investigations:

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

D. Prior Experience:

Experiences with the City and entities that evaluation committee members represent and that are not specifically mentioned in the solicitation response may be taken into consideration when evaluating offers.

E. Multiple Awards:

To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

## SPECIAL TERMS AND CONDITIONS

- 1. SAFETY STANDARDS:** The Bidder/Offeror shall certify that the equipment being bid/offered is designed and includes operating features that comply with the safety standard promulgated under the Federal Occupational Safety and Health Act (OSHA). If the equipment being bid/offered is governed by OSHA regulations the successful Bidder/Offeror is required to submit a certificate stating that such equipment complies with applicable OSHA standards.

During the term of this Contract, should there be modifications in federal and/or state laws and regulations regarding safety standards or other specifications and marketing procedures for the contracted item(s), the City of Tucson reserves the right to amend the Contract to provide for the delivery of items which conform to such changes. As a result, the City will negotiate any necessary price changes with the Contractor. Should negotiations fail the City may cancel the Contract for the affected items.

- 2. DEFECTIVE PRODUCT:** All defective products shall be at the Contractors sole discretion, be repaired, replaced and/or exchanged by the Contractor. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. All replacement products must be received by the City within seven (7) days of initial notification. Contractor will supply a loaner for any equipment returned if it cannot be repaired or replaced within seven (7) days of initial notification.
- 3. WARRANTY:** Bidder/Offeror shall warrant that all equipment and parts furnished in their bid/offer are newly manufactured and free from defects in material and workmanship for no less than one (1) year from the date the equipment is delivered or installed. Warranty shall also guarantee accepted trade standards of quality, ~~fitness for the intended uses,~~ and conformance to promises or specified specifications. No other express or implied warranty shall eliminate the Contractor's liability as stated herein.
- 4. EQUIPMENT/RECALL NOTICES:** In the event of any recall notice, technical service bulletin, or other important notification affecting equipment purchased from this contract, a notice shall be sent to the Contract Representative. It shall be the responsibility of the contractors to assure that all recall notices are sent directly to the agencies Contract Representative.
- 5. FOB DESTINATION FREIGHT PREPAID:** Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.
- 6. PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.
- 7. TERM AND RENEWAL:** The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

8. **COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See [http://www.tucsonprocurement.com/coop\\_partners.aspx](http://www.tucsonprocurement.com/coop_partners.aspx) and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf> for a listing of participating agencies. The parties agree that these lists are subject to change.

Commented [AC2]: A signed contract acknowledgment form will be required for any of these agencies utilizing this contract, at time of order.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

### STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
7. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
8. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
9. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
10. **CONTRACT AMENDMENTS:** The Procurement Department, with mutual written agreement by Contractor, has the sole authority to:
  - A. Amend the contract or enter into supplemental verbal or written agreements;
  - B. Grant time extensions or contract renewals;
  - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

11. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

- 12. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, and after the Contractor has been provided an opportunity to cure, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
- 13. DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
- 14. EQUAL PAY:** The Contractor shall comply with the applicable provisions of the Equal Pay Act of 1963 (Pub.L. 88-38, 29 U.S.C. section 206(d)); Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352, 42 U.S.C. 2000e *et seq.*; and, the Lily Ledbetter Fair Pay Act of 2009 (Pub.L. 111-2).
- 15. EXCLUSIVE POSSESSION:** All services, information, ~~computer program elements~~, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- 16. FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.
- If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.
- 17. FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.
- If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 18. GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- 19. HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.
- 20. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and

employees from and against all allegations, demands, proceedings, suits, actions, claims brought by third parties, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, reasonable attorney fees, and court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, to the extent arising directly from or out of or resulting from (a) any negligent actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or a defect in products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, or (b) infringement of third-party patents or copyrights caused by City of Tucson's use of such products in accordance with their written operating instructions. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractor agrees to waive all rights of subrogation against the City of Tucson, its agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54. 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

- 21. INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

- 22. INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor in accordance with the Contractors Warranty & Return Policies. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.
- 23. INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.
- 24. ISRAEL BOYCOTT DIVESTMENTS:** Acceptance of the contract warrants that the vendor is in compliance with A.R.S. § 35-393 and does not participate in a boycott of Israel as that term is defined within A.R.S. § 35-393.
- 25. LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.
- 26. LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.
- 27. NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.
- 28. NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods

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or services from another source when necessary.

**29. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

**30. PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

**31. PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

**32. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.

**33. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.

**34. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.

**35. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.

**36. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

**37. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.

**38. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.

**39. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All

subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

**40. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.

**41. TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, and after providing the Contractor an adequate opportunity to cure. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

~~In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;~~

~~In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;~~

~~In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;~~

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

~~In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;~~

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

**42. TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

**43. WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. More receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

**PRICE PAGE**

*Fee must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, materials, printing, travel and mileage, postage, etc.*

The quantities shown are estimates only and the City reserves the right to increase or decrease amounts as circumstances may require.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL QUANTITY</u>	<u>UNIT PRICE</u>	<u>EXTENDED PRICE</u>
1.	Cardiac Monitor (fully equipped)	70 ea	\$ _____	\$ _____
2.	Lithium Ion Battery (additional)	140 ea	\$ _____	\$ _____
3.	AED (fully equipped)	60 ea	\$ _____	\$ _____
<b>GRAND TOTAL \$</b>				_____

Note: fully equipped means all necessary accessories such as carrying case, batteries (including secondary set) cables, finger probes, BP cuff, battery support unit and/or other adjunct required to utilize all functions of the device.

1. Additional Accessories, etc. (Information only)				
•	Monitor Lithium Battery	1 ea	\$ _____	\$ _____
•	AED Battery Replacement	1 ea	\$ _____	\$ _____
•	SpMET(with adjuncts)	70 ea	\$ _____	\$ _____
•	SpCO (with adjuncts)	70 ea	\$ _____	\$ _____
•	Temperature	70 ea	\$ _____	\$ _____
•	BP Cuff Replacement	1 ea	\$ _____	\$ _____
•	Cable Set Complete	1 ea	\$ _____	\$ _____
•	Defib Pads (set)	1 ea	\$ _____	\$ _____
•	Monitor Replacement case	1 ea	\$ _____	\$ _____
•	AED Replacement case	1 ea	\$ _____	\$ _____

**ZOLL has provided this pricing information on the following addendum pages.**

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

REQUEST FOR PROPOSAL NO. 171769  
PAGE 25 OF 24  
SENIOR CONTRACT OFFICER: JENN MYERS  
PH: (520) 837-4137 / FAX: (520) 791-4735

### OFFER AND ACCEPTANCE

#### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal, including Contractors modifications to such, which is incorporated by reference as if fully set forth herein.

**ZOLL Medical Corporation**

Company Name  
269 Mill Road  
Address  
Chelmsford, MA 01824  
City State Zip  
Steven K. Flora  
Signature of Person Authorized to Sign  
Steven K. Flora  
Printed Name  
Sr. V.P. of North American Sales  
Title

For clarification of this offer, contact:

Name: Amy Coffin  
Title: Bids & Proposals Coordinator  
Phone: 800-348-9011  
Fax: 978-421-0015  
E-mail: acoffin@zoll.com

#### ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 171769 -

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF TUCSON, a municipal corporation  
Awarded this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
As Tucson City Attorney and not personally

\_\_\_\_\_  
Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM  
As Director of Procurement and not personally

**CITY OF TUCSON**  
**DEPARTMENT OF PROCUREMENT**

REQUEST FOR PROPOSAL NO. 171769

**Cardiac Monitors**

AMENDMENT NO. **One (1)**

DATE ISSUED: **Tuesday, June 06, 2017**

The referenced document has been modified as per the attached Amendment No. **One (1)**.

**Please sign this Amendment where designated and return the executed copy with your PROPSAL.** This amendment is hereby made part of the referenced solicitation as though fully set forth therein. Any questions regarding this amendment should be addressed to **Jenn Myers**, Senior Contract Officer at (520) 837-4137 or **[Jenn.Myers@tucsonaz.gov](mailto:Jenn.Myers@tucsonaz.gov)**

DEPARTMENT OF PROCUREMENT  
ADMINISTRATION • DESIGN AND CONSTRUCTION SERVICES • GOODS AND SERVICES  
MAIL SERVICES • S.A.M.M. (SURPLUS AUCTION MATERIALS MANAGEMENT)  
CITY HALL • 255 W. ALAMEDA • P.O. BOX 27210 • TUCSON, AZ 85726-7210  
(520) 791-4217 • FAX (520) 791-4735 • TTY (520) 791-2639  
[www.tucsonprocurement.com](http://www.tucsonprocurement.com)

# REQUEST FOR PROPOSAL AMENDMENT

CITY OF TUCSON DEPARTMENT OF PROCUREMENT  
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701  
P.O. BOX 27210, TUCSON, AZ 85726  
Phone: (520) 837-4137  
ISSUE DATE: Tuesday, June 06, 2017

RFP NO.: 171769  
RFP AMENDMENT NO.: One (1)  
PAGE 1 of 1

DUE DATE: Wednesday, June 14, 2017 @ 4:00 P.M., Local AZ Time  
RESPONSIBLE CONTRACT OFFICER: Jenn Myers

## Cardiac Monitors

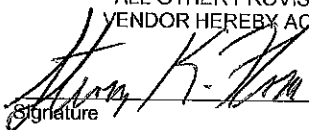
A SIGNED COPY OF THIS AMENDMENT MUST BE SUBMITTED WITH YOUR PROPOSAL.  
THIS RFP IS AMENDED AS FOLLOWS:

**ITEM NO.1: PROPOSAL/SUBMITTAL FORMAT:** The required number of copies shall hereby be changed to **An Original and 7 copies (8 total) of each proposal**

**ITEM NO. 2: REVISED PRICE PAGE:** The price page shall hereby be replaced in its entirety with the revised price page.

**\*\*END OF AMENDMENT\*\***

ALL OTHER PROVISIONS OF THE REQUEST FOR PROPOSAL SHALL REMAIN IN THEIR ENTIRETY.  
VENDOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

  
Signature \_\_\_\_\_ Date June 12, 2017  
Steven K. Flora, Sr. V.P. of North American Sales  
Print Name and Title \_\_\_\_\_

ZOLL Medical Corporation  
Company Name \_\_\_\_\_  
269 Mill Road  
Address \_\_\_\_\_  
Chelmsford, MA 01824  
City State Zip \_\_\_\_\_

## REVISED PRICE PAGE

*Fee must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, materials, printing, travel and mileage, postage, etc.*

The quantities shown are estimates only and the City reserves the right to increase or decrease amounts as circumstances may require.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL QUANTITY</u>	<u>UNIT PRICE</u>	<u>EXTENDED PRICE</u>
1.	Cardiac Monitor (fully equipped)	70 ea	<u>\$34,163.23</u>	<u>\$2,391,426.10</u> <small>This pricing includes 4 years of extended warranty per monitor.</small>
2.	Lithium Ion Battery (additional)	140 ea	<u>\$346.50</u>	<u>\$48,510.00</u>
3.	AED (fully equipped)	60 ea	<u>\$1,539.53</u>	<u>\$92,372.00</u>
<b>GRAND TOTAL \$</b>				<u><b>2,532,308.10</b></u> <small>(without trade-ins quoted)</small>
				<u><b>2,165,346.10</b></u> <small>(with trade-ins quoted)</small>

Note: fully equipped means all necessary accessories such as carrying case, batteries (including secondary set) cables, finger probes, BP cuff, battery support unit and/or other adjunct required to utilize all functions of the device.

1. Additional Accessories, etc. (Information only)

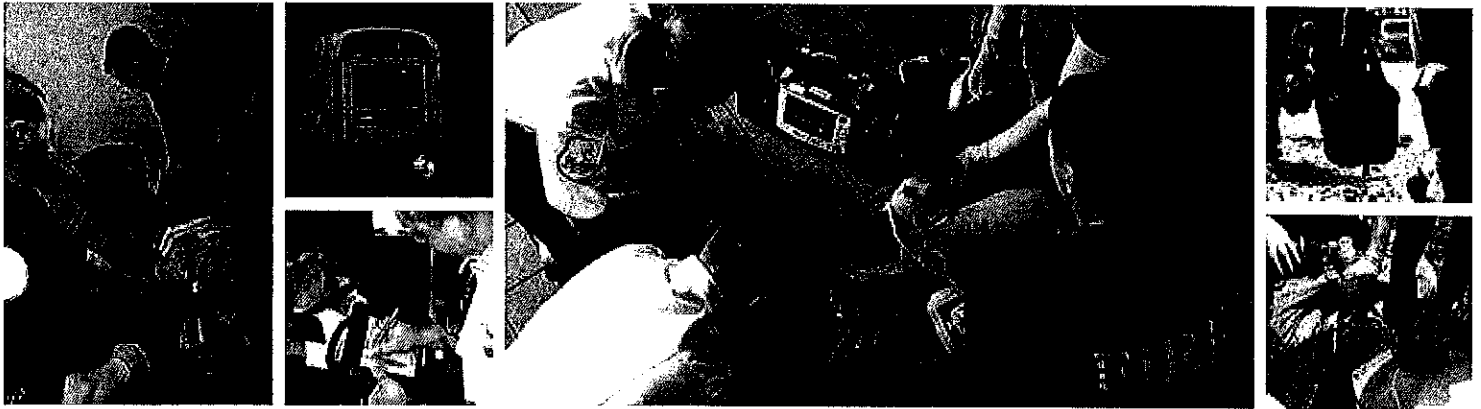
• Monitor Lithium Battery	1 ea	<u>\$346.50</u>	<u>\$ 346.50</u>
• AED Battery Replacement	1 ea	<u>\$52.50</u>	<u>\$ 52.50</u>
• SpMET(with adjuncts)	70 ea	<u>\$3,920.00</u>	<u>\$274,400.00</u> <small>This pricing is for units shipped from the warehouse with these parameters *See below for pricing of upgrades after shipment.</small>
• SpCO (with adjuncts)	70 ea	<u>\$2,341.50</u>	<u>\$163,905.00</u>
• Temperature	70 ea	<u>\$696.50</u>	<u>\$48,755.00</u>
• BP Cuff Replacement	1 ea	<u>\$36.75</u>	<u>\$36.75</u>
• Cable Set Complete	1 ea	<u>\$227.50</u>	<u>\$227.50</u>
• Defib Pads (set)	1 ea	<u>\$52.50</u>	<u>\$52.50</u>
• Monitor Replacement case	1 ea	<u>\$346.50</u>	<u>\$346.50</u>
• AED Replacement case	1 ea	<u>\$73.50</u>	<u>\$73.50</u>

Note: BP Cuff Replacement- include price for different sizes- small, medium, large, extra-large if different cost. ZOLL offers replacement, reusable cuffs, sizing from infant to adult. All sizes are offered at the same price listed about.

Note: Cable Set Complete, as it relates to additional accessories means cardiac 3-lead and 12-lead therapy cables. The pricing listed above is for a 12-Lead Cable set that includes both limb leads and v leads. These can also be purchased separately at the pricing listed below:  
 Limb Leads- \$206.50 each  
 V Leads- \$206.50 each  
 3 Leads- \$87.50

\*The following pricing is for the parameter upgrades after shipment of the quoted device.  
 SpCO (with adjuncts) \$3,164.88 per unit  
 SpMet (with adjuncts) \$5,225.50 per unit  
 Temperature \$870.62 per unit

**ZOLL®**



## Section V- ZOLL Quotation



**ZOLL Medical Corporation**

Worldwide HeadQuarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 245679 V:1**

DATE: June 12, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	601-2221011-01	<p><b>X Series Manual Monitor/Defibrillator \$14,995</b>            with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5"( 16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display.</p> <p><b>Accessories Included:</b></p> <ul style="list-style-type: none"> <li>• Six (6) foot 3- Lead ECG cable</li> <li>• MFC cable</li> <li>• MFC CPR connector</li> <li>• A/C power adapter/ battery charger</li> <li>• A/C power cord</li> <li>• One (1) roll printer paper</li> <li>• 6.6 Ah LI-Ion battery</li> <li>• Carry case</li> <li>• Declaration of Conformity</li> <li>• Operator's Manual</li> <li>• Quick Reference Guide</li> </ul> <p>• <b>One (1)-year EMS warranty</b></p> <p><b>Advanced Options:</b>  <b>Real CPR Help Expansion Pack \$ 995</b>            CPR Dashboard quantitative depth and rate in real time, release indicator, interruption timer, perfusion performance indicator (PPI)            • See - Thru CPR artifact filtering</p> <p><b>ZOLL Noninvasive Pacing Technology: \$2,550</b></p>	70	\$37,275.00	\$26,092.50	\$1,826,475.00 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 1 Subtotal \$1,826,475.00**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 EMS Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

Worldwide HeadQuarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 245679 V:1**

DATE: June 12, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		<b>Masimo Pulse Oximetry</b>				
		<b>SP02</b> <span style="float:right">\$1,795</span>				
		• Signal Extraction Technology (SET)				
		• Rainbow SET				
		<b>NIBP Welch Allyn includes:</b> <span style="float:right">\$3,495</span>				
		• Smartcuff 10 foot Dual Lumen hose				
		• SureBP Reusable Adult Medlum Cuff				
		<b>End Tidal Carbon Dioxide monitoring (ETCO2)</b>				
		<b>Oridion Microstream Technology:</b> <span style="float:right">\$4,995</span>				
		Order required Microstream tubing sets separately				
		<b>Interpretative 12- Lead ECG:</b> <span style="float:right">\$8,450</span>				
		• 12-Lead one step ECG cable- includes 4- Lead limb lead cable and removable precordial 6- Lead set				
2	8000-0330	SpO2 Rainbow Reusable Patient Cable: Connects to LNCS Single Use and Reusable Sensors (4 ft)	140	\$295.00	\$206.50	\$28,910.00 *
3	8000-0294	SpO2 LNCS Adult Reusable Sensor (1 each)	140	\$295.00	\$206.50	\$28,910.00 *
4	8000-0580-01	Six hour rechargeable Smart battery	140	\$495.00	\$346.50	\$48,510.00 *
5	8300-0500-01	SurePower 4 Bay Charging System Including 4 Battery Charging adapters	30	\$2,583.00	\$1,808.10	\$54,243.00 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 2 Subtotal \$1,987,048.00**

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Barry Herbert  
 EMS Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

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 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
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**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

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Tel: 520-837-4137

**QUOTATION 245679 V:1**

DATE: June 12, 2017

TERMS: Net 30 Days

FOB: Destination \*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
6	8300-0002-01	Dual Lumen NIBP Hose, 10 Ft.	70	\$125.00	\$87.50	\$6,125.00 *
7	REUSE-11-2MQ	Adult Cuff, 2-Tube, Twist lock connector	70	\$52.50	\$36.75	\$2,572.50 *
8	8300-0802-01	12-Lead one step ECG cable - AAMI includes 4-Lead trunk cable and removable precordial 6 lead set.	70	\$325.00	\$227.50	\$15,925.00 *
9	8300-0783	Multifunction Therapy Cable - X Series	70	\$298.00	\$208.60	\$14,602.00 *
10	8000-0370	CPR Connector	70	\$265.00	\$185.50	\$12,985.00 *
11	8000-000472-01	Multi-Tech Cell Modem Kit, CDMA, Verizon, US	70	\$595.00	\$416.50	\$29,155.00 *
12	8300-0520-01	Filterline Set Adult/Pediatric, Case of 25	14	\$275.00	\$192.50	\$2,695.00 *
13	8300-0524-01	Smart CapnoLine Plus O2 Adult (O2 tubing), Case of 25	14	\$355.00	\$248.50	\$3,479.00 *
14	8900-0400	CPR stat*padz HVP Multi-Function CPR Electrodes - 8 pair/case	18	\$560.00	\$392.00	\$7,056.00 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 3 Subtotal \$2,081,642.50**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
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**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
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 Tel: 520-837-4137

**QUOTATION 245679 V:1**

DATE: June 12, 2017

TERMS: Net 30 Days

FOB: Destination

\*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
15	8900-2065	<i>pedi-padz</i> Pediatric Liquid Gel Multi-Function Electrodes - 6 pair/case	24	\$249.00	\$174.30	\$4,183.20	*
16	8900-0004	4 ECG electrodes/pouch (120 pouches / 480 electrodes)	2	\$96.00	\$67.20	\$134.40	*
17	8000-000901-01	ECG plain white paper- 80mm (pack of 6 rolls)	70	\$24.00	\$16.80	\$1,176.00	*
18	8778-200044	4 yrs Extended warranty, 1 PM per year, Battery replacement	70	\$5,570.00	\$5,040.00	\$352,800.00	*
19	20100000101011010	AED Plus with Graphical Cover. Includes: LCD screen showing voice prompt messages, device advisory messages, elapsed time, shock count and chest compression bar. Supplied with Public Safety PASS Cover, Softcase, Operator's Guide and (5) five year limited warranty.	60	\$1,995.00	\$1,197.00	\$71,820.00	*
20	8000-0807-01	Type 123 Lithium Batteries, quantity of ten (10) with storage sleeve	120	\$75.00	\$52.50	\$6,300.00	*
21	8900-0400	<i>CPR stat-padz</i> HVP Multi-Function CPR Electrodes - 8 pair/case	16	\$560.00	\$392.00	\$6,272.00	*

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**Page 4 Subtotal \$2,524,328.10**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 EMS Territory Manager  
 480-689-9362



**ZOLL Medical Corporation**

Worldwide HeadQuarters  
 269 Mill Rd  
 Chelmsford, Massachusetts 01824-4105  
 (978) 421-9655 Main  
 (800) 348-9011  
 (978) 421-0015 Customer Support  
 FEDERAL ID#: 04-2711626

**TO: City of Tucson Department of Procurement**

255 W. Alameda, 6th Floor  
 Tucson, AZ 85701

Attn: **Jenn Myers**

email: [jenn.myers@tucsonaz.gov](mailto:jenn.myers@tucsonaz.gov)  
 Tel: 520-837-4137

**QUOTATION 245679 V:1**

DATE: June 12, 2017

TERMS: Net 30 Days

FOB: Destination

\*\*

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
22	8900-0810-01	<b>pedi-padz® II Pediatric Multi-Function Electrodes</b> - Designed for use with the AED Plus. The AED recognizes when pedi-padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. <b>One pair.</b>	120	\$95.00	\$66.50	\$7,980.00 *
23	7800-0214	<b>MRX Biphasic w/Pacing, 12 lead + 3 parameters</b> <b>Trade-In- Trade-in value is subject to change after initial purchase.</b>	43		(\$8,534.00)	(\$366,962.00) **

\*\*Trade-In Value valid if all equipment purchased is in good operational and cosmetic condition, and includes all standard accessories.  
 Customer assumes responsibility for shipping trade-in equipment to ZOLL Chelmsford within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.  
  
 \*Reflects Discount Pricing.  
  
 This quotation has been quoted with payment terms of **NET 30**. For financing options, please refer to item 30 on the Method of Approach response document.

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

**TOTAL \$2,165,346.10**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES QUOTED ARE VALID FOR 90 DAYS.
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO [ESALES@ZOLL.COM](mailto:ESALES@ZOLL.COM).
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING [www.zollwebstore.com](http://www.zollwebstore.com).

Barry Herbert  
 EMS Territory Manager  
 480-689-9362

## ZOLL QUOTATION GENERAL TERMS & CONDITIONS

**1. ACCEPTANCE.** This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract") the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

**2. DELIVERY AND RISK OF LOSS.** Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

**3. TERMS OF PAYMENT.** Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

**4. CREDIT APPROVAL.** All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

**5. TAXES & FEES.** The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

**6. WARRANTY.** (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embedded in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**7. SOFTWARE LICENSE.** (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth. (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein. (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein. (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation. (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer. (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

**8. DELAYS IN DELIVERY.** ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

**9. LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATION'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

**10. PATENT INDEMNITY.** ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

**11. CLAIMS FOR SHORTAGE.** Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

**12. RETURNS AND CANCELLATION.** (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

**13. APPLICABLE LAW.** This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

**14. COMPLIANCE WITH LAWS.** (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

**15. NON-WAIVER OF DEFAULT.** In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

**16. ASSIGNMENT.** This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

**17. TITLE TO PRODUCTS.** Title to possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

**18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.**  
**VETERAN'S EMPLOYMENT** - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

**EMPLOYMENT OF HANDICAPPED** - If this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

**EQUAL OPPORTUNITY EMPLOYMENT** - If this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth as 41 CFR 60-1.40.

**19. VALIDITY OF QUOTATION.** This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

**20. GENERAL.** Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

**ZOLL.**



## Section III- Method of Approach



## A. METHOD OF APPROACH

1. Offeror shall prepare a detailed Method of Approach to the Scope of Work, which clearly identifies the services proposed to be performed by the Offeror. This section should confirm Offeror's understanding of the RFP and the needs of the Tucson Fire Department. This should address in depth how Offeror plans to meet the requirements of each of the services and activities as outlined in the Scope of Work of the RFP. The method and approach for each service should be addressed in a manner that reflects understanding and commitment to providing services as needed in a professional manner in the specified time frame.

ZOLL fully understands the systems concepts and solutions required. It is our understanding that this project involves the sale, support, and installation of up to 70 ALS defibrillators and a number of AEDs. It will also involve the export and integration of data collected within the ZOLL X Series, all of which ZOLL is fully prepared to do and has done so in excess of a thousand installations. ZOLL will fully support the delivery of in-service training by our Clinical Deployment Team, data support from our Sales Engineering Team as well as follow-up training as needed. We are prepared to deliver written reports at each stage of implementation if requested. Training will be provided by highly qualified licensed paramedics employed by ZOLL and supported by on-line interactive training. Please see the attached implementation plan. Progression will be as follows:

- Staged delivery of X Series and AED Plus
- Assembly of X Series and AED Plus cases and cables at customer site
- Training program reviewed with clinical personnel from Tucson Fire
- Training program delivered by ZOLL personnel
- Classroom training consisting of didactic and hands-on training delivered by ZOLL personnel
- Follow-up training at customer's request
- Ride-alongs as approved by Tucson Fire
- Active support of data integration into RescueNet Code Review, ZOLL On-line and RescueNet 12 Lead
- Integration into ZOLL and installation of any software as needed within your system and at any hospitals as requested

Project support will be directed by ZOLL's highly experienced Deployment Team with experience in such places as Northwest Fire, Golder Ranch Fire, Los Angeles County, Austin Travis County, San Antonio Fire, Orange County Fire Authority, and Cal Fire Riverside.

Our commitment to customer service is paramount in everything we do. The results of that commitment are ZOLL's own customers voting it to fifteen straight (2001-current) North Face Awards, which is a distinction awarded by the Omega Management Group each year to those companies that demonstrate excellence in customer service.

ZOLL will assign a project manager to work in conjunction with the strategic account manager that is assigned to the City already to oversee RescueNet ePCR, Billing and Fire RMS. Cardiac monitors and AED will be added to the scope of work as listed in the RFP.

## A. METHOD OF APPROACH

2. Describe the products/brands that you are offering. Please provide product brochure, descriptive literature, and/or a product catalog.

ZOLL is proud to offer the X Series Cardiac Monitor Defibrillator and the AED PLUS Automated External Defibrillator.

**The X Series** is the newest, most state-of-the-art monitor on the US market today. It also the smallest, lightest, full featured transport Monitor/Defibrillator on the market today. When transporting critically ill patients, a monitor that is small and lightweight with extensive monitoring capabilities is required. In the event your patient arrests during transport, you also need a defibrillator. Now you can have all of these features plus real-time CPR feedback in one compact device. The X Series is a full-featured monitor/defibrillator, yet it weighs less than 12 pounds with battery included. *It is at least 59% smaller and 42% lighter than the competitive monitor/defibrillators.*

**The AED Plus** is ZOLL's flagship public access/BLS defibrillator. It was the first AED in the world to incorporate rate and depth CPR visual and audible feedback. It also has the distinction of being the AED with lowest cost of ownership long term. 5,5,5, up to five years of life on the pads (CPR D Padz), five years of life on the batteries, and five years of warranty included (with an option to extend to 7 years by registering the device with ZOLL). The battery pack is comprised of 12 non-rechargeable li-ion batteries that can easily be replaced through ZOLL or many other commercial outlets resulting in significant cost and time savings.

### **X Series: an in depth review**

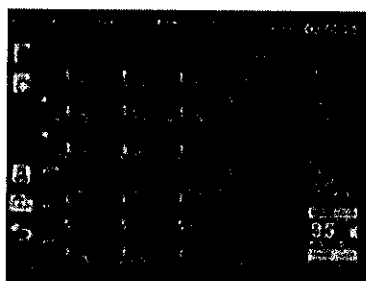
#### **Advanced Monitoring Technology with Defibrillation Capabilities**

The X Series incorporates the most advanced and most complete monitoring solutions available. In addition to 3-, 4-, 5- or 12-lead ECG monitoring, this extremely durable device can measure more physiologic parameters than any other monitor/defibrillator on U.S. market including: NIBP, EtCO<sub>2</sub>, Total Hemoglobin (SpHb), Oxygen Content (SpOC), Carboxyhemoglobin (SpCO), Methaemoglobin (SpMet), Oxygen Saturation (SpO<sub>2</sub>), Pulse Rate (PR), Perfusion Index (PI), and Pleth Variability Index (PVI), as well as three invasive blood pressures and two temperatures. *The X Series is the only defibrillator that can monitor three invasive pressure lines.* This allows clinicians to measure arterial, venous, and intracranial pressures simultaneously, using standard invasive pressure transducers.

The X Series simultaneously displays up to four physiological waveforms; choose from ECG, SpO<sub>2</sub>, EtCO<sub>2</sub>, IBP, CPR, or cascading ECG. Regardless of which measurements you're tracking, they will be easy to see thanks to the large, high-contrast, color screen.

#### **See All 12-leads in Real-time: A Window to Serial ECG Changes:**

Unstable patients call for extraordinary vigilance. Substantial ST changes can occur between the initial transmission and arrival at the hospital. The X Series offers Split-Screen View keeps medics on top of the situation by displaying the real waveform next to one that was previously acquired, **THIS IS MADE TO BE USED IN A MOVING ENVIRONMENT**





## A. METHOD OF APPROACH

- ZOLL gives the crews 12 leads on the screen, seeing all 12-Leads at the same time increases accuracy of 12-Leads because any data problems are seen before the 12-Lead is acquired.
- The X-Series is only monitor that displays all 12-Leads in diagnostic mode. This means the provider is able to see every lead with the diagnostic filters applied and gives a true picture of what is going on with the patient, making serial ECG acquisition easier and more effective with the X Series than any other monitor on the market.
- Unlike the Glasgow Algorithm (Physio) which has a demonstrated track record of high rate of false positives, the Innovise algorithm in the X-Series is the most accurate 12-Lead algorithm on the market today and the only one with a specificity for both **male and female patients**. Both the GE and the Glasgow can only apply an algorithm that is specific to male patients.
- At 89% the X Series offers the greatest level of sensitivity for the detection of AMI. Compare that to the 72% AMI sensitivity of the Glasgow Algorithm in Physio's Lifepak 15. **Make that alert call confidently knowing it is based on the best algorithm.**

### Masimo Advanced Parameters

The X Series is the only defibrillator that gives you the breadth and option of Masimo's entire Advanced Parameters bank which includes: Oxygen (SpO<sub>2</sub>), Total Hemoglobin (SpHb), Oxygen Content (SpOC), Carboxyhemoglobin (SpCO), Methaemoglobin (SpMet), Oxygen Saturation (SpO<sub>2</sub>), Pulse Rate (PR), Perfusion Index (PI), and Pleth Variability Index (PVI)

### Welch Allyn NIBP

The noninvasive blood pressure (NIBP) technology in the X Series is considered the gold standard for NIBP. Only available on ZOLL monitor/defibrillators, Sure BP<sup>®</sup> and Smartcu<sup>®</sup> make the difference. With Sure BP<sup>®</sup>, you'll get pressure readings in about 15 seconds because they are *detected during cuff inflation*. Smartcu<sup>®</sup> *synchronizes the measurement to the patient's R wave*, improving accuracy and reliability.

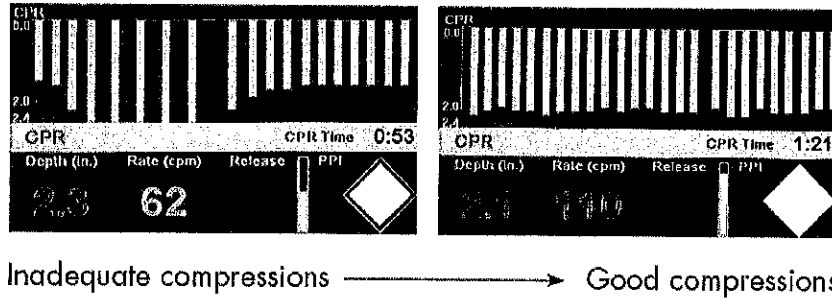
### Oridion Microstream<sup>®</sup> EtCO<sub>2</sub>

The X Series offers end-tidal carbon dioxide Microstream<sup>®</sup> monitoring for continuous monitoring of both intubated and non-intubated patients of all ages (neonate to adult). The 2015 American Heart Association Guidelines stated that use of capnography to monitor endotracheal tube placement is a Class I recommendation. Additionally, this parameter allows continuous monitoring of the progress of resuscitation and provides a secondary indicator of CPR quality and ventilation. The X Series offers the widest CO<sub>2</sub> measurement range when compared with any other defibrillator. The X Series can measure from 0 to 150 mmHg, allowing the clinician to accurately measure patients with elevated CO<sub>2</sub> levels (i.e. some drug overdose patients). Other defibrillators stop reading at 99 mmHg.

### Unmatched CPR Support for Adult and Pediatric Patients

In the 2015 AHA Guidelines and the 2013 AHA Consensus Statement, key emphasis was placed on performing high-quality CPR and minimizing interruptions in chest compressions. Should your patient require CPR, you'll have unmatched support that only ZOLL can offer. CPR Dashboard™ displays real-time measures that drive high-quality CPR coaching clinicians to a depth of 2 to 2.4 inches and a rate of 100 to 120 compressions per minute.

## A. METHOD OF APPROACH



You get *audible and visual* indicators letting you know if your compressions are of proper depth and rate and whether you are releasing quickly enough to allow for full ventricular filling. A Perfusion Performance Indicator (PPI) is another indicator of overall chest compression quality.

If compressions are paused for more than 3 seconds, an Idle Timer will display to prompt the clinician to resume CPR. 2015 AHA Guidelines states that *"For adults in cardiac arrest receiving CPR without an advanced airway, it is reasonable to pause compressions for less than 10 seconds to deliver 2 breaths (Class IIa, LOE C-LD). In adult cardiac arrest with an unprotected airway, it may be reasonable to perform CPR with the goal of a chest compression fraction as high as possible, with a target of at least 60% (Class IIb, LOE C-LD)."*

The X Series also features *See-Thru CPR®*, unique to ZOLL. See-Thru CPR filters out chest compression artifact so that the patient's underlying heart rhythm can be displayed during CPR. By allowing the clinician to visualize the underlying rhythm, this technology minimizes the duration of pauses in compressions, critical to improving patient survival.

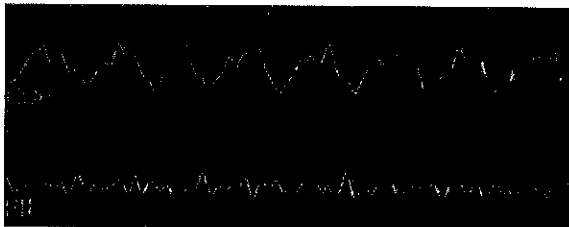


Figure: Raw ECG shown as the top trace; filtered ECG shown as the bottom trace.

### CPR Stat Padz™ and Pediatric One-Step™ Electrodes

Designed for use with ZOLL manual defibrillator medical devices, these electrodes provide the benefits of Real CPR Help®, which conveys the depth and rate of compressions in real time, and See-Thru CPR®, which allows rescuers to see the underlying electrical activity during compressions. ZOLL builds this technology into its pads to allow for easy deployment on the most critical calls the crews will conduct. **With ZOLL's CPR Stat Padz the crews will not have to carry in, set up, and deploy additional systems to help with CPR. This also allows for crews to not have to worry about decontamination, storage and accounting for the supplemental CPR system. With Real CPR help all data can be easy synced, into the patient report unlike other CPR Systems.**

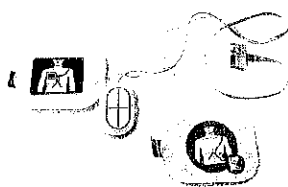


Figure: Adult CPR Stat Pads



Figure: Pediatric One-Step Pediatric CPR Pad



## A. METHOD OF APPROACH

### Rectilinear Biphasic Waveform

ZOLL utilizes a *proprietary rectilinear biphasic waveform (RBW)*. The RBW is the only external biphasic waveform developed specifically for external defibrillation. ZOLL is the only company cleared by the FDA to label its biphasic waveform as superior to monophasic for defibrillation of high-impedance ventricular fibrillation and cardioversion of atrial fibrillation.

The RBW delivers the highest average current to high impedance patients; average current is what defibrillates the myocardium. Clinical studies have demonstrated that the *ZOLL RBW is 99% first shock effective at 120 joules for all ventricular tachyarrhythmias*. RBW has been studied in more than 7,000 patients in over 14 separate clinical trials. **All biphasic waveforms are superior to monophasic in that they control for patient impedance. However, ZOLL's biphasic waveform is the only one cleared by FDA to claim superiority over monophasic – all others can only claim equivalent efficacy.**

### 40ms Noninvasive Pacing Waveform

ZOLL offers a *unique 40ms constant current pacing pulse*. In clinical studies, ZOLL's pacing waveform has been shown to successfully pace (capture) nearly twice as often as other pacing waveforms. In addition to the higher capture rates (efficacy) ZOLL's pacer has demonstrated the need to use significantly lower levels of current for capture making our external pacemaker more tolerable for the conscious patient. The ZOLL X Series also give you both fixed and demand mode. ZOLL Medical Corporation began as a pacing company. Our founder, Dr. Paul Zoll, invented external pacing and our waveform was patented for the first twenty years of ZOLL's existence.

### Supports Neonates to Adults

With the X Series, the same monitor/defibrillator can be used to transport adults, children, and neonates. Pediatric and neonatal patients are not just small adults. They require monitoring and defibrillation capabilities that are specific to their needs. The X Series is capable of automatically adjusting the alarm limits, NIBP inflation pressure and volume.

*ZOLL offers the only manual defibrillator on the market that automatically lowers the energy level of the shock and activates a pediatric specific arrhythmia analysis algorithm simply by connecting to ZOLL pediatric electrodes.*

### Data Communications and Data Transfer

The X Series provides unprecedented communication capabilities with integrated Wi-Fi, Bluetooth and USB options, including cellular modem. Whether it is the transport of a STEMI patient to a larger receiving hospital, or transfer of a patient from the ICU for tests, the X Series provides the level of monitoring needed for even your most critical patients.

Once the patient has been safely returned to the ICU, all vital sign and trend data can be quickly and wirelessly uploaded to the ZOLL RescueNet® suite of products and ultimately the electronic medical record system installed at the hospital. Should a cardiac event take place during transport, code data including CPR quality is available for documentation, debriefing, and quality improvement initiatives. **This capability is standard with every X Series meaning there is no additional cost associated with 12-lead transmission or case management. Free for you and free for your receiving hospitals.**

The X Series is designed with electronic charting in mind. It redefines what a monitor should send to the patient record. The built-in memory ensures a complete patient record is transmitted by capturing 24 hours of event (ECG and vital signs) or trend data, and up to 1,000 timestamped events. The X Series simplifies transmission. Its standard communication package makes wires, cables, and "dongles" a thing of the past. It is the first monitor to integrate Wi-Fi, Bluetooth, and USB capabilities as part of the standard communication package. The X Series speeds medic charting by seamlessly uploading the event record. It automatically populates patient data fields in many of the leading ePCR systems. ZOLL's open interface



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software development kit (SDK) is available to all ePCR vendors. The X Series' open architecture means the X Series can transmit a 12-lead ECG into all of the leading STEMI and cardiology management systems. This dramatically increases the efficiency of medic charting by seamlessly uploading the event record. It automatically populates patient data fields into Tucson Fire's ZOLL Tablet ePCR application.

### **ZOLL Online / CaseReview**

ZOLL Case Review and the X Series give you the most comprehensive and insightful look into the patient case file. ZOLL make data collection simple and easy. Gone are the days of chasing crews to download case files from their monitors. Instead, with the push of a button, medics now directly send X Series® files from the field to your system at the end of a call and move on with their shift. Data cards and cables are a thing of the past. With RescueNet® CaseReview, access to case files is as fast as opening the browser of any web-enabled device. Case files are immediately available moments after their transmission. One hundred percent case review is within reach. Event reports are a click away. Choose a case from the list display in your browser, open it, and examine the case. Key QA elements presented in colorful graphics make reviewing simple. Debriefing medics can be a same-day matter. Event-specific reports are easily distributed with a few clicks. Crews can review their own performance while the event is fresh in their minds. The real power of RescueNet CaseReview comes from its ability to collectively summarize system-wide performance. This next-generation tool delivers the capability to summarize the full set of event files in order to recommend quality and system-level improvements. Pre-configured reports, in combination with tag-and-query filter capabilities that produce customized summaries, shed light on system trends and advanced processes. Put this all in place without the need for a network or IT specialist. No special hardware is required to use RescueNet CaseReview's capabilities. A service's secure account can be accessed from any web-enabled device. The cloud-to-cloud interface makes ePCR integration more stable. When CaseReview is updated, ePCR devices no longer need to be modified. Putting CaseReview in place gives you IT independence while consolidating QA/QI efforts. Today most services spend about 80% of their time chasing the data and 20% analyzing. Case Review attempts to reverse that.

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### Optimizing the QA Process

#### Immediate File Access

- Review all files from browser
- Use any web-connected device

#### Service-wide Views

- Create system-focused reports
- Populate pre-configured reports
- Customize reports with file tags, query filters



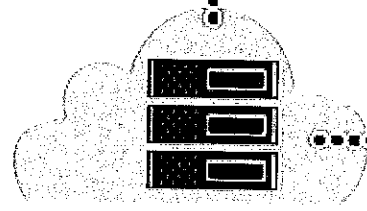
Case Review

#### Instantaneous Debriefing

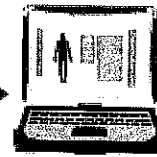
Debrief while medics still on shift, following AHA recommendation to review while resuscitation is fresh in rescuer's mind!

#### Open Architecture

Any ePCR can receive event reports



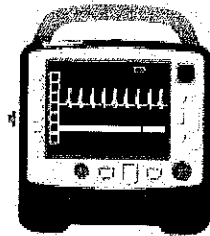
ZOLL Online



Patient Chart

#### Simplified Data Collection

- Medics push case file at end of call, move on with shift
- No need to track down data cards or USB sticks in field



#### IS Independence (hosted version)

- No support required since tool not tied to specific hardware
- Compatible with mobile devices (Windows, iOS, Android)
- Includes file archive, backup, upgrades, and system maintenance

### SurePower™ Batteries

The X Series SurePower™ II high-capacity lithium-ion battery can continuously monitor more physiological parameters for a longer time from a single battery, than any other defibrillator. *Each X Series battery will continuously monitor ECG, SpO2, EtCO2, three channels of invasive pressures, two channels of temperature and non-invasive blood pressure every 15 minutes for 6 hours.* X Series is the only defibrillator that can operate for 6 hours from one battery and still provide AC or DC backup capability. The X Series battery is swappable, allowing the user to remove the battery without losing data or monitor settings. The battery can be recharged, during use, in 4 hours – providing continuous operating power. The battery also includes a run time battery level indicator, as well as a total capacity indicator. As a redundant safety measure, our SurePower II Charging systems automatically fail out any battery with a capacity below 60% shifting failures from the patient to the charger.

### AED Plus: an in depth review

#### Resuscitation Features

ZOLL Medical Corporation's AED Plus and AED Pro are designed to enhance a victim's chance of survival by making it possible for a rescuer to effectively respond in ways that the rescuer with just an ordinary AED could not. The "Chain of Survival" taught by the American Red Cross and AHA is designed to optimize a patient's chance for survival of a sudden cardiac arrest. This concept has four links in the



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chain - early access, early cardiopulmonary resuscitation, early defibrillation, and early advanced cardiac life support (ACLS) - all deemed critical to a patient's survival. From ABC assessment to defibrillation and CPR, the ZOLL AED Plus and the AED Pro are the **first** and **only** AED that guides rescuers through the entire rescue process.

### Supports Complete Chain of Survival

The best way to increase the chance of saving sudden cardiac arrest (SCA) victims is to remember and follow every link in the Chain: Early Access, Early CPR, Early Defibrillation, Early Advanced Care. Every step helps save lives. Any break in the Chain compromises survival. Ordinary AEDs only defibrillate. Rapid defibrillation is a critical intervention to improve survival, but it is not enough. While roughly half of the unresponsive, collapsed victims need defibrillation, every one of them need effective cardiopulmonary resuscitation (CPR).

Following the Chain of Survival requires more than just attaching electrodes and delivering a shock. From checking responsiveness, summoning help, and doing an assessment to CPR and defibrillation, ZOLL AED's with instantaneous Real CPR Help guide the rescuer through the entire rescue. By focusing on the full Chain of Survival and supporting effective CPR, ZOLL AED's are the first and only Full-Rescue AED's.

### Help for the Infrequent Rescuers – A Complete Road Map for Resuscitation

A picture is worth a thousand words. ZOLL AEDs with their visual/text displays and voice prompts help the rescuer every step of the way to perform every important life-saving action. These prompts assure that everything is done in order and that shocks, if required, are delivered rapidly.

- ZOLL AED Plus and AED Pro are the only AEDs that **provide graphical, text and voice prompts** to help coach the rescuer through the COMPLETE rescue, helping the rescuer perform all of the steps involved in a rescue and provide the feedback helping a rescuer provide high-quality CPR.
- **Real-time ECG display, number of shock provide** and a clock that indicates elapsed time. This provides important event information for the advanced responder.
- The ZOLL AED Pro **backlit screen** allows a rescuer to use the device effectively even in the dark should there be a power outage.
- The ZOLL AED Plus and AED Pro, with its brilliant graphics, text and voice prompts, was designed to **allow a rescue to be made by the hearing or visually impaired**.

### Supports Cardio Pulmonary Resuscitation (CPR)

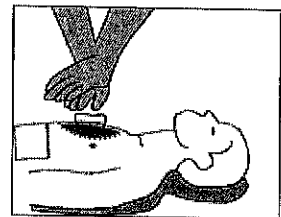
Inadequate compression rate and depth are common during CPR. Adult victims require high-quality CPR. High-quality CPR is compressions at a rate of 100 per minute and at a depth at least 2 inches. Compressions must be done well to effectively move blood and oxygen.

All victims of cardiac arrest require high-quality CPR throughout the rescue. The American Heart Association in the 2010 Guidelines stresses the importance of high-quality CPR:

“There was unanimous support for increased emphasis on ensuring that rescuers deliver high-quality CPR: rescuers need to provide an adequate number and depth of compressions, allow complete chest recoil after each compression, and minimize interruptions in chest compressions.”

(AHA Guidelines for CPR and ECC, pg. IV-206)

Only Real CPR Help, available from ZOLL in the AED Plus and AED Pro, provides real-time feedback on rescuer's rate and depth of CPR chest compression, allowing them to provide the high-quality CPR that a victim of cardiac arrest requires:





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"CPR is important both before and after shock delivery. When performed immediately after collapse from VF SCA, CPR can double or triple the victim's chance of survival. CPR should be provided until an automated external defibrillator (AED) or manual defibrillator is available."

(2005 American Heart Association Guidelines for Emergency Cardiac Care, pg. IV-13)

ZOLL AED's convert compression data instantaneously from the CPR-D padz and provides a metronome to help the rescuer with the proper rate and depth, saying "Push harder" or "Good compressions," as needed. It also shows CPR compression depth on the display screen. ZOLL AED's the only devices that help the rescuer achieve the correct rate and depth of chest compressions during CPR. No other AED has this capability.

- Not just defibrillation (more than a 2-button shock box)
- Instantaneous feedback on a rescuer depth and rate of CPR chest compressions
- A critical link in the "Chain of Survival". The AED's Real CPR Help Feedback provides audio and visual cues that help prevent the two most common errors of CPR: inadequate depth and inadequate rate. The AED Plus delivers a visual bar graph and voice prompts to let the rescuer know if they are performing effective chest compressions or need to push harder while its adaptive metronome leads the rescuer to the recommended 100 compressions-per-minute rate.

### ZOLL's Rectilinear Biphasic Waveform

ZOLL Medical Corporation Defibrillators utilize ZOLL patented Rectilinear Biphasic Waveform (RBW) which has demonstrated superior clinical performance with increased current and low energy treatment modalities. The ZOLL RBW is the only waveform cleared by the FDA to be labeled as clinically superior to monophasic waveforms for the conversion of ventricular fibrillation in high-impedance patients. This allows ZOLL Defibrillators to deliver more current than any other defibrillator when it matters most.

Only the ZOLL Rectilinear Biphasic Waveform has proven its clinical superiority for defibrillating VF in high-impedance patients. It also reduces the exposure to high peak current and keeps an optimal waveform shape over a wide range of patient variability therefore enhancing efficacy while reducing the risk of inappropriate currents.

### Intelligent Pediatric Capability

ZOLL AED's can defibrillate children up to eight years of age, using the Pedi-Padz II electrodes. When the Pedi-Padz II electrode is connected, the AED recognizes that a pediatric rescue is in progress. With ECG analysis designed specifically for a pediatric heart rate, coupled with appropriate defibrillation energy levels, the AED can handle both adult and pediatric rescues.

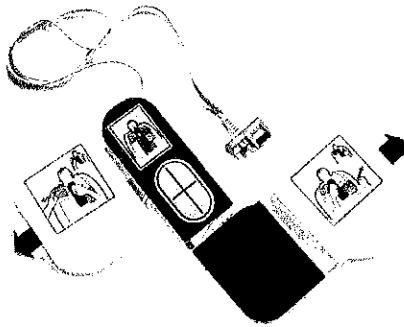
- Helps prevent mistakes where both pediatric and adult pads are available because it recognizes and announces, with voice and text prompts, which kind of pads are attached. This makes it less likely that a rescuer will mistakenly attach pediatric pads to an adult and deliver too little energy, or attach adult pads to a child and deliver too much energy.
- Provides child-specific advice on when to shock because it performs heart analysis (electrocardiogram - ECG) specifically designed for children, whose heart rates are typically faster than adults. This makes it less likely that a shock will be advised when in fact it should not.
- Provides confidence that the shock delivered is what the rescuer intends because it delivers six levels of energy that originate and are controlled in the AED itself - three levels for adults, and three lower levels for children. This assures the user that once the AED has indicated "pediatric pads", the energy delivered will be a pediatric dosage, and will not be distorted in some way because of special hardware in the wires to the pads.

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### One-Piece Electrode Pad

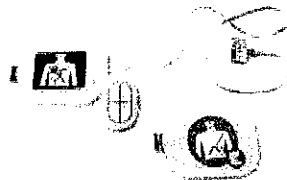
Ordinary AEDs require that the rescuer use two electrodes. ZOLL's Full-Rescue AED features CPR-D padz, a one-piece, pre-connected electrode with CPR Feedback. By using CPR hand placement as the landmark, it is easy to place the CPR-D padz on the victim quickly.

- ZOLL AED's incorporate electrodes that have a five year shelf life, the longest of any electrodes in the market and batteries that have a five year shelf life and support a daily self-check – longer than any other AED battery saving you money and significantly decreases the cost of ownership for years to come.
- The electrodes transfer easily to other ZOLL defibrillators with minimal interruption in treatment.
- The one piece CPR-D Padz electrode simplifies placement and eliminates confusion by providing visual landmarks and "pull-tab" applications.



**ZOLL CPR-D Padz**

ZOLL offers multiple pad compatibility options across its line of defibrillators. This approach allows for seamless transition while providing the best possible patient care and cost savings for the department.



**ZOLL CPR-Stat Padz**

### Exceptionally durable – Designed to withstand extreme conditions

ZOLL AED's superior design and construction allow a Particle and Water Ingress Rating of (IP-55). The AED Pro is the industry leader in the drop test, the only AED to pass the 1.5 meter drop test. The reliability and durability of ZOLL AED's is a key reason why it has been selected by the military for all types of military expeditionary environments.

### Advanced Data Capabilities and Upgradability

ZOLL AED's utilize wireless and USB technology to facilitate the downloading of data from AED after a sudden cardiac event, instead of using outdated data cards that are easily lost or the chain of custody broken. Data can easily be downloaded to a computer, USB storage device (AED Pro) or PDA. Because the ZOLL AED's are software driven, software updates will be provided, should protocols change in the future.



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3. Describe the ordering process Tucson Fire employees should follow.

ZOLL offers many methods of ordering to make the process as convenient as possible for our customers. Purchase Orders can be submitted to the following:

- PHONE: 800-348-9011 (M-F 8:30am-7:00pm EST) *consumables only*
- FAX: 978-421-0015
- ONLINE: ZOLL WebStore @ <https://www.zollwebstore.com/> *consumables only*
- EMAIL: [esales@zoll.com](mailto:esales@zoll.com)

All orders will be processed within 24 hours of being received, and a confirmation will be sent via email to the email address listed on the Purchase Order.

4. Describe any alternative methods for purchase, such as Internet ordering.

Consumables may be purchased online at [www.zollwebstore.com](http://www.zollwebstore.com). Capital equipment is not available on the webstore, and may be submitted to the FAX or EMAIL noted above.

5. Provide a method for delivery of products.

The City of Tucson Fire will be notified of a shipment via email to the email address listed on the Purchase Order. Consumable orders will be delivered within 7-10 days after receipt of a Purchase Order. Capital Equipment orders will be delivered within 60 days after receipt of Purchase Order. ZOLL does have the flexibility to meet a reasonable capital equipment shipping request by the City of Tucson. Unless otherwise stated, ZOLL will ship UPS Ground with terms of FOB Destination and Free Shipping & Handling (ground shipments only). The City of Tucson Fire Department may request to expedite shipping, and will be responsible to pay for the shipping & handling. Any expedited orders should be requested by 3:00 EST.

6. Provide a description of proposed quality control practices in addition to the requirements described in the Scope of Work.

Above and beyond ZOLL's first class quality control, we will deploy the local quality assurance manager to unpack, inspect, build and configure each monitor along with all related cables, sensors and disposables. In the unlikely event that something to be replaced the local quality assurance manager will facilitate the replacement of the item before any training or deployment occurs.

7. Describe how you will keep the City updated on all updated technology.

The strategic account manager will be in regular contact with the City and Fire Department on any new updates, parameters, or anything that can provide the citizens of Tucson with an improved level of care or the department better administratively or operationally efficiency.

8. Describe how data will be collected, stored and retrieved for use by the Tucson Fire Department.

Data will be collected initially on the X Series using a dedicated ARM processor solid-state memory that store up to 250 calls, 24 hours of event (ECG and vital signs) or trend data, and up to 1,000 timestamped events. From there data can easily be transmitted from the X Series to ZOLL Tablet ePCR using either Wi-Fi, Bluetooth, or USB upload. From there data would be managed/stored using the same manner and infrastructure you have in the field today.

9. Describe how CPR data is collected including devices or adjuncts required to collect CPR data, how the data is stored, transferred, and what software is required to retrieve the data for QA purposed and public record release.

ZOLL is still the only company in the world to employ a passive, pad-based CPR feedback solution in lieu of trying to remember to bring an additional piece of equipment to the patient's bedside. By using a passive measurement system providers do not have to change their behavior in order to access all of the CPR feedback features onboard both the X Series and AED Plus units. By simply applying a set of CPR pads they will see rate, depth, and release velocity (X Series only) feedback immediately on screen. The X Series also contain a novel feature called See-Thru CPR which will allows providers to



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see the patient's underlying rhythm the entire time they are performing compression allowing for pause times to be minimized. Intra-call data is automatically generated and stored in memory. When the case is sent to ZOLL ePCR the QA/QI file is automatically generated and attached. QA/QI data collection is both automatic and consolidated. There is no separate piece of equipment to chase down to try to pull data from. The result is less chasing data and more analyzing and improving.

10. Describe each step from turning on the device to capturing and storing a 12 lead, including application and use of the CPR adjuncts and other accessory devices. This must include entering a patient's name

### **12-Lead**

Step 1: Turn Monitor On

Step 2: Push 12-lead Button

Step 3: Monitor auto prompts for patient information, add age and gender, patient last name all together.

Step 4: Press Done to Acquire, 12-leads are auto stored at this point.

Step 5 (Optional): Transmit to any area hospital (free for you, free for them)

### **CPR with Feedback**

Step 1: Turn Monitor On

Step 2: Apply CPR Stat Pads to patient's bare chest

Step 3: Perform Compression, dashboard will give you real time rate depth, and release velocity (Real CPR Help) and the patients underlying rhythm the entire time CPR is being performed (See-Thru CPR). System will give providers both audible and visual feedback in real time.

Step 4: QA/QI file is auto-generated when case is transmitted to ZOLL ePCR via Bluetooth, Wi-Fi, or USB communications. CPR Review available in near-real time.

11. Describe the warranty offered on devices including any limitation to warranty repairs and or replacement.

Please refer to the documents labeled "EMS One (1) Year Limited Product Warranty", "AED Plus Five (5) Year Limited Product Warranty", and "Free Extended Warranty AED Plus" included in Section VII of this response.

12. Describe the maintenance on software systems. Submit any Software License Agreements, Software Maintenance Agreements, Service Level Agreements, etc. for the City's consideration. Any agreement that is not submitted prior to contract award may not be considered after contract award.

Major software updates for the X Series are included at no charge and are typically administered alongside yearly PMs. A synopsis of the changes the updates contain will provided in advance so a decision can be made as to whether or not to perform the update. There is no EULA that accompanies these updates. Code Review software is available at no charge online and our Case Review and RescueNet 12-Lead applications are available at no cost online at [www.zollonline.com](http://www.zollonline.com).

13. Describe the user management and user definition for the records management system.

The ZOLLonline system allows for the creation of two types of users. Administrative users have specific rights to manage the account setting, add users, and remove users. User level access permissions allow for viewing data, but not changing settings or adding new users to the account.

14. Describe how devices get assigned to users.

Devices are usually assigned by station and then by apparatus.

15. Describe how devices get subscribed to the server/cloud level system.

Devices will be programmed with an account specific identifier and password. This will allow the devices to interact with a specific ZOLLonline account. The identifier and password will be programmed in all X Series devices prior to implementation.



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16. Describe your backup and recovery approach.  
All databases are backed up regularly. Full backups are done daily and hourly backups are done throughout the day. Database redundancy is also used to protect against hardware or operating system failure. Backup tapes are stored off-site.
17. Describe your device security approach.  
The X Series monitor defibrillator utilizes a proprietary operating system. This operating system will only interact with ZOLL issued updates. The device setting area is protected with a configurable password. Only authorized users can make changes to these settings.
18. Describe your server/cloud access management system.  
ZOLLonline.com is a central storage option for all X Series data. This includes a repository of transmitted 12 lead case studies and full disclosure files. The system includes a robust search mechanism to allow users to find the data they are interested in. User's interactions are logged and reports on user access are available. The system is HIPAA and HITECH compliant.
19. Describe how a specific set of data (i.e., 12 Lead can be associated with a patient from the TabletPCR system.  
When a 12 lead is acquired and stored, multiple data points are available for reference. These include the device name, age, sex, serial number of the X Series, and a patient number associated with the case. After a case is linked to a TabletPCR record, these data points can be referenced in the ZOLLonline system. If the reviewer is just interested in viewing the case data (including 12 leads) they can open the entire case from within Tablet or WebPCR.
20. Describe the training that will be provided by the Contractor to TFD personnel.  
Please refer to the document labeled "Implementation Plan" included in Section VI of this response.
21. Describe the implementation plan and time line for TFD  
Please refer to the document labeled "Implementation Plan" included in Section VI of this response.
22. Describe how offeror shall repair/maintain devices on City property including the turnaround time when calls are made by TFD personnel for maintenance including processing, timelines and associated cost for repairs.  
Please refer to the document labeled "Technical Support & On-Site Service" included in Section 6 of this response.
23. Describe how loaner devices will be provided.  
If it is determined that a loaner device is required, the Technical Support Help Desk will dispatch a service loaner to your facility. A Service Loaner is available at no charge during the repair analysis process and is shipped to arrive before 10 AM the next business day. Please refer to the document labeled "Technical Support & On-Site Service" included in Section 6 of this response.
24. Describe the weight of the devices.  
The ZOLL X Series weighs 11.7 lbs. with a battery and paper installed.
25. Describe the connectivity options for the devices.  
Wi-Fi, Bluetooth, and USB
26. Describe how data will be compatible with the ZOLL RescueNet TabletPCR application.  
Please specify how this integration would work.  
TabletPCR is developed by ZOLL. This gives the unique ability to have both X Series and TabletPCR developers' work together developing integration. We offer the ability to transfer data via



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Wi-Fi, Bluetooth, and USB. After the data is transferred, the file is parsed and specific items are placed in the PCR. These include pulse, SPO2, respirations, ETCO2, 12 leads, defibrillations, cardioversions, pacing events, and all code markers. The upload of the case data is simple for the end user, resulting in higher compliance rates. The full case file is attached to the ePCR and second by second data can be viewed in the field or by QA/QI.

27. Please describe how you would enable an interface with ZOLL's RescueNet TablePCR system if it does not yet exist.

The X Series interface is built into the ZOLL TabletPCR application.

28. Contractor shall describe cloud storage options including cloud storage capability, download and access process, record retrieval, records interface with EPCR, and data retention period.

ZOLLonline.com can be utilized for a cloud based storage of case files and transmitted 12 leads. The system is managed by ZOLL and fully hosted. There is no additional cost for the base 12 lead and case management tools. Access is managed via a username and password. After logging into the system, the user will have the option to open view 12 leads or full disclosure case files. CPR report cards are available in the system for individual case debriefing. ePCR integration with the X Series will occur at the local level and not utilize the zollonline.com system. 12 leads will be stored indefinitely and individual case files will be stored for 30 days. ZOLL does offer an upgraded Case Review product that allows for 7 years of case file storage.

29. If a cloud based solution is offered how will you manage your backups and ensure availability? Where are your primary and secondary data centers?

All databases are backed up regularly. Full backups are done daily and hourly backups are done throughout the day. Database redundancy is also used to protect against hardware or operating system failure. Backup tapes are stored off-site.

Microsoft IIS web servers are deployed in redundant farms for scalability and high availability. The web server farm resides in a perimeter DMZ, while database servers are segregated by a firewall to limit access and safeguard information. All servers are virtualized to leverage the HA features of VMWare. ZOLL deploys anti-virus software across systems to protect against newly discovered threats and malware. ZOLL Online is a multi-tenant infrastructure; direct server access, monitoring systems access as well as direct access to data is disallowed to all ZOLL clients to protect their privacy.

The primary datacenter is located in Denver, CO. Our secondary (backup) datacenter is located in Chicago, IL.

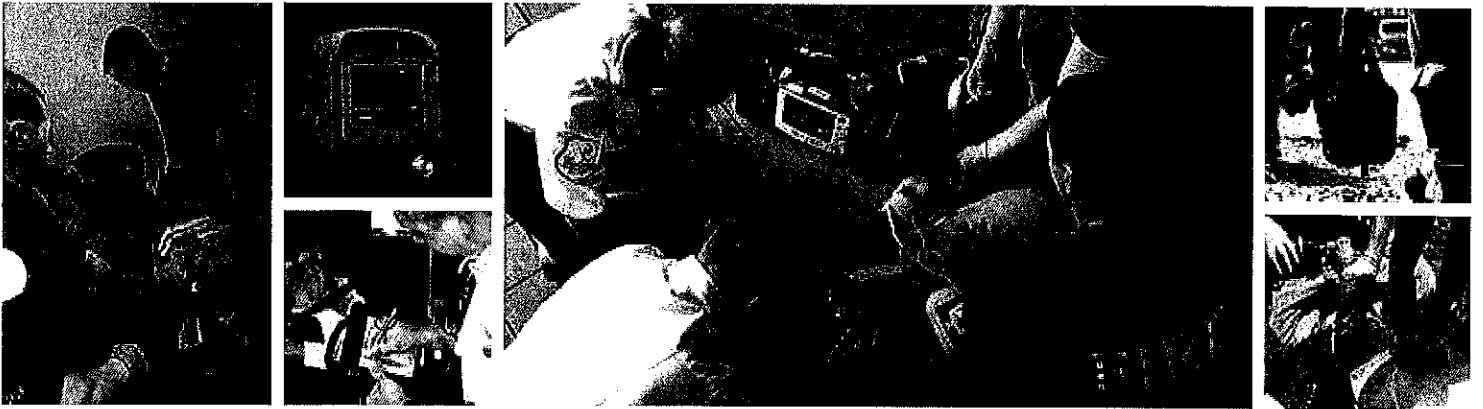
30. Provide details and terms of leasing options.

ZOLL Medical Corporation is providing interest free financing terms. These terms apply to the purchase of all items including trade-in equipment from quote 245679 V1. ZOLL is willing to work with the City of Tucson for additional specific payment terms that best fit the needs of the City of Tucson. ZOLL has great flexibility on payment terms and will work the City for mutual agreed upon terms if desired.

- 2 equal payments due NET 30, July 30, 2018.
- 3 equal payments due NET 30, July 30, 2018, July 30, 2019.

By placing a purchase order in response to this quotation, the City of Tucson agrees that it thereby grants to ZOLL a purchase money security interest in all the goods referenced by such purchase order and acknowledges that ZOLL may file a UCC Financing Statement ordering such purchase money security interest. Customer further agrees to execute a Security Agreement to be provided by ZOLL prior to shipment pursuant to such purchase order.

**ZOLL.**



## Section IV- Qualifications & Experience



## B. QUALIFICATIONS AND EXPERIENCE

1. Provide a general overview of your company, including number of years in business, corporate headquarters location, etc. Provide a brief history of the organization.

This proposal for the Tucson Fire Department, has been developed taking into consideration Tucson Fire Department procurement communities' unique needs and how ZOLL Medical Corporation's solutions will meet them. We believe the business relationship and partnership between ZOLL and Tucson Fire Department will be longstanding and mutually beneficial.

ZOLL is focused on improving patient outcomes with novel resuscitation and acute critical care technology. Our family of products offers the most integrated system of clinical solutions for EMS as well as complementary products and services to provide data integration and management.

Since the founding of ZOLL in 1980, the company has been committed to developing and marketing cardiac resuscitation products with "leading-edge" technology. The ZOLL name is synonymous with the market introduction of innovative, technically advanced cardiac resuscitation systems. Since our beginning, ZOLL products have embodied innovation and brought new capabilities to the market. ZOLL's CPR technology is unsurpassed. Over the last decade, the importance of high-quality CPR has become clear. Through our Real CPR Help<sup>®</sup>, CPR Dashboard<sup>™</sup>, and See-Thru CPR<sup>®</sup> technologies, ZOLL gives rescuers the tools they need to strive to perform the highest quality of CPR recommended in the American Heart Association 2015 Guidelines.<sup>1</sup>

Today ZOLL's product portfolio and customer base have greatly expanded. Hospitals, emergency medical services (EMS), and lay rescuers across the globe use ZOLL professional and automated external defibrillators every day to treat sudden cardiac arrest and improve outcomes. Our comprehensive product portfolio also includes the world's only wearable defibrillator; a revolutionary automated CPR system; rapid, highly efficient intravascular and surface temperature management systems for patients who require therapeutic cooling or warming; and intrathoracic pressure regulation (IPR) therapy, which creates a vacuum inside the chest cavity that enhances circulation, increases blood pressure, and lowers intracranial pressure.

In 2015 our ResQCPR<sup>™</sup> System became the first and only CPR device with an FDA-approved indication to "increase the likelihood of survival in adults who have experienced non-traumatic cardiac arrest." Cardiac arrest victims treated with the ResQCPR System were 49% more likely to be alive one year after the event than patients treated with conventional manual CPR.<sup>2</sup> We also offer a family of portable ventilators for environments ranging from the emergency department to military operations, and every care environment in between.

At ZOLL we also feel strongly that we need to address data management and analysis. One of ZOLL's core principles is that if you can't measure something, you can't improve it. Our data offerings are unmatched. When the call first comes in, EMS systems use RescueNet<sup>®</sup> Navigator to get the crew to the scene as quickly as possible. After the crisis has passed, RescueNet Code Review enables rescuers to see events as they occurred, providing the ECG, the vital signs, and the depth and rate of compressions for a post-event analysis.

In all, we are focused on key areas that we believe make a real difference to our customers and their patients: investing in people and research, delivering innovative products, and helping our customers save lives that might otherwise be lost. Investments



## B. QUALIFICATIONS AND EXPERIENCE

In research and development in our quest to continue delivering products that set new standards of care are above average for the industry and our spending in clinical research is unequalled.

Our ongoing commitment is to being a consistent, stable, and reliable partner whom our customers can count on to achieve meaningful business and clinical advances.

To that end, ZOLL employs more than 4,000 employees to manufacture, market and sell products in more than 140 countries. Throughout ZOLL's first 30 years in business, the company has had consistent management, regularly ending each fiscal year with no debt and substantial assets.

In 2012, ZOLL was acquired by the Asahi Kasei Group, part of Asahi Kasei Corporation. With operations in chemicals and fibers, homes and construction materials, electronics, and the healthcare business sectors, Tokyo-based Asahi Kasei has more than 30,000 employees worldwide and sales of \$19 billion.

ZOLL's commitment to our customers is paramount in everything we do. We recognize the unique challenges faced by each of the markets ZOLL serves and work with our customers to address their needs. Through ongoing research and development, intelligent engineering, and strategic acquisitions, we have pursued this goal for more than three decades by offering best-in-class, technically advanced products and by adding new capabilities.

We believe ZOLL's proposal is comprehensive, and one that clearly addresses all of the critical elements of Tucson Fire Department solicitation for Automated External Defibrillator (AED) units, accessories, and service and support. We also believe that we have offered very compelling clinical reasons and financial incentives for Tucson Fire Department to include ZOLL in its award decision at this time. We are confident that ZOLL's clinically advanced technology would significantly improve clinical outcomes and that cost reductions in Tucson Fire Department's procurement community could be achieved.

ZOLL considers it a great privilege to have an opportunity of a business partnership with the Tucson Fire Department in conjunction with Tucson Fire Department and we are deeply committed to supplying excellent products and services to the Tucson Fire Department procurement communities. We extend an invitation for any interested Tucson Fire Department representative to visit ZOLL's worldwide headquarters in Chelmsford, Massachusetts to gain more insight into our vision for the future. Similarly, we welcome all opportunities to meet with Tucson Fire Department representatives in the state of Texas to work toward the development of a meaningful business partnership.

<sup>1</sup>Kronick SL, et al. *Circulation*. 2015; 132(suppl 2):S397-S413.

<sup>2</sup> ResQCPR System Summary of Safety and Effectiveness Data approved by Food & Drug Administration 2015.

2. Provide resumes and/or biographies for all key personnel, including supervisors, who will be assigned to this contract.

Mike Borkowski - Strategic Account Manager, 480-299-8900, [Mborkowski@zoll.com](mailto:Mborkowski@zoll.com)

Mike has 15+ years at ZOLL Medical and will oversee all aspects of the conversion. Mike's current role at ZOLL is to convert large, strategic accounts to ZOLL. He manages the process for a successful transition and to provide a single point of contact for monitors, AED's, ePCR, Fire RMS and billing.



## B. QUALIFICATIONS AND EXPERIENCE

Ryan Grulke, Southwest USA EMS Regional Manager, 512-277-0424, [rgrulke@zoll.com](mailto:rgrulke@zoll.com)  
Ryan has 12+ years in the medical field and 7 year at ZOLL Medical and will manage local representation and corporate logistics. Ryan's current role at ZOLL is to manage all eight Southwest EMS representative's sales activities.

Barry Herbert – Arizona Territory Manager, 480-793-1388, [bherbert@zoll.com](mailto:bherbert@zoll.com)  
Barry is the newest member of the ZOLL team. He brings 9 years of customer support and sales specialist. Barry's current roll at ZOLL will be to manage and grow the AZ Market and provide world class customer service to his Arizona EMS customers

Chris Graf – Senior Sales Engineer, 484-239-5867, [cgraf@zoll.com](mailto:cgraf@zoll.com)  
Chris has 10+ years at ZOLL Medical Corporation and will be the technical contact for Tucson. Chris' current role is to be the product expert regarding IT aspects of the X Series and supporting integrations. These include cloud based storage, integrating the X Series into Tucson's infrastructure, and ePCR linking. Prior to ZOLL, Chris was a paramedic that managed a fire based EMS service.

Alex Ciric, Territory Manager, 480-494-1970, [aciric@zoll.com](mailto:aciric@zoll.com).  
Alex recently began his career with ZOLL Data earlier this year. He has +10 years in wireless technology business experience. Alex's current role at ZOLL is providing software and hardware solutions. Alex also in a key resource on RN ePCR, Billing and Fire RMS for the department.

Sandra Montero, Customer Quality Assurance Regional Manager, 305-785-8908, [smontero@zoll.com](mailto:smontero@zoll.com)  
Sandra has been with the ZOLL Field Technical Support Team for 10 years. She is the Western Service Manager and over sees the Technical Support Team in the Western Region. She serves as the customer liaison to the company for quality and service.

Michael Limberg, Field Technical Service Representative, 770-355-6156, [mlimberg@zoll.com](mailto:mlimberg@zoll.com).  
Michael is the local field technical service that provides technical support, warranty and preventive maintenance for Arizona customers for the past 3 years. He has working knowledge of the Fire Service as I was a Fire fighter EMT for over 10 years and is very customer focused.

Shannon L Tinker, Manager, US EMS Clinical Deployment, 386-212-1415 [sltinker@zoll.com](mailto:sltinker@zoll.com)  
Shannon joined ZOLL in 2011 as a Technical Training and Deployment Specialist for the Service Organization. She transferred to the Clinical Deployment Team in 2012 to join a program met with exemplary reviews from customers across North America. Today she leads a team of experienced EMS educators that train and support thousands of healthcare providers annually. She brings 20 years of combined Healthcare and EMS experience as a Paramedic, Supervisor and QA/QI Coordinator.

Eric T. Mannion, Manager, US EMS Clinical Deployment, 978-906-1200, [emannion@zoll.com](mailto:emannion@zoll.com)  
Eric joined ZOLL in 2010, one of the first paramedics recruited to provide Clinical Education to ZOLL's clients. The program was met with exemplary reviews from customers across North America. Today he leads a team of experienced EMS educators who log nearly 20,000 hours of education and reach thousands of healthcare providers annually. He brings 30 years of combined Fire and EMS experience as a practicing clinician, Operation's Manager and adjunct instructor at a local college.

Eric Houle, Sr. Clinical Deployment Specialist, 386-299-1045, [ehoule@zoll.com](mailto:ehoule@zoll.com)  
Eric is a senior member of the Clinical Deployment Team and has been training on the X-Series® since its inception in 2012. He brings 21 years of experience in the Fire/EMS industry as a front-line provider, clinical educator and EMS system administrator. Prior to joining ZOLL, Eric was the EMS Clinical Training Manager for a countywide ambulance service in central Florida where he continues to work part-time using a variety of ZOLL products, including X-Series®, AutoPulse®,



## B. QUALIFICATIONS AND EXPERIENCE

TabletPCR® and the RescueNet® Dispatch Billing suite. Eric is also an adjunct faculty member at the Central Florida College.

Rod Cheney Clinical Deployment Specialist, 419-906-9018, [rcheney@zoll.com](mailto:rcheney@zoll.com)  
Rod joined ZOLL's Technical Service team in 2013 as an AutoPulse® Specialist, transitioning to the Clinical Deployment team in 2015. He brings a vast career in Emergency Services serving at different capacities throughout his 23 year career. Prior to joining ZOLL, Rod served as Paramedic, EMS Director, Firefighter, Critical Care Transport Medic, EMA Director & LEPC Director. Fulton County, where Rod served as the Director of EMS, was the first county in Ohio to convert to ZOLL products, including E-Series®, AutoPulse® and ResQpod® Rod continues to support his community teaching First Aid and CPR.

Carol Calache, Clinical Deployment Specialist, 386-882-7654, [ccalache@zoll.com](mailto:ccalache@zoll.com)  
Carol joined our Clinical Deployment Team with 20 years' experience in Fire/EMS. She began her career in the private sector as a Paramedic/Field Training Officer, subsequently transitioning to a central Florida fire department where she moved through the ranks to Driver/Engineer and Clinical Educator. In 2009 she was elected by her peers to serve as their IAFF Union President and continued to do so until her retirement. She was instrumental in the initial beta-testing of the AutoPulse® during its original market debut. Carol is a graduate of the University of Florida Sports Management program.

3. Indicate the office locations of the Key Personnel to be assigned to the account and identify the lead person.

Mike Borkowski will be the lead person assigned to the City of Tucson's account. Mike's office is out of Scottsdale, Arizona. The locations for the rest of the team are as follows:

Ryan Grulke- Austin, Texas  
Barry Herbert- Mesa, Arizona  
Chris Graf- Broomfield, Colorado  
Alex Ciric- Gilbert, Arizona  
Sandra Montero- Phoenix, Arizona  
Michael Limberg- San Tan Valley, Arizona  
Shannon Tinker- Titusville, Florida  
Eric Mannion- Townsend, Massachusetts  
Eric Houle- South Daytona, Florida  
Rod Cheney- Archbold, Ohio  
Carol Calache- New Smyrna Beach, Florida

4. Provide at least three (3) references for work that is similar in scope to the Scope of Work of this contract. Preferably, the City seeks 3 references from fire agencies that are utilizing the same devices proposed herein, as well as the ZOLL EPCR. For each reference, include name, telephone number, and email address of contact person.

LifeNet EMS  
Jarrod Nall  
903-244-2148  
[jnall@lifenetems.org](mailto:jnall@lifenetems.org)

Volusia County Emergency Medical Services  
Mike Vincent  
386-236-3545  
[mvincent@volusia.org](mailto:mvincent@volusia.org)

City of San Antonio Fire  
Antonio (Tony) Felan  
210-844-5206  
[Antonio.felan@sanantonio.gov](mailto:Antonio.felan@sanantonio.gov)



## B. QUALIFICATIONS AND EXPERIENCE

5. If the use of subcontractors is proposed, provide the information requested in items 1 through 4 above for each subcontractor.

N/A

6. Offerors who submit a proposal as a manufacturer's representative must include a letter from each manufacturer involved. The letter shall certify that the vendor is authorized to provide the specific products presented, that the vendor is authorized to submit a proposal on such products, and guarantees that should the vendor fail to fulfill any obligations established as a result of a Contract award, the manufacturer, upon assignment by the City, will either assume such obligations or provide an alternate authorized vendor for the balance of the Contract period. In the event of such an assignment, all other terms and conditions of the Contract shall remain the same.

ZOLL Medical Corporation is the manufacturer.

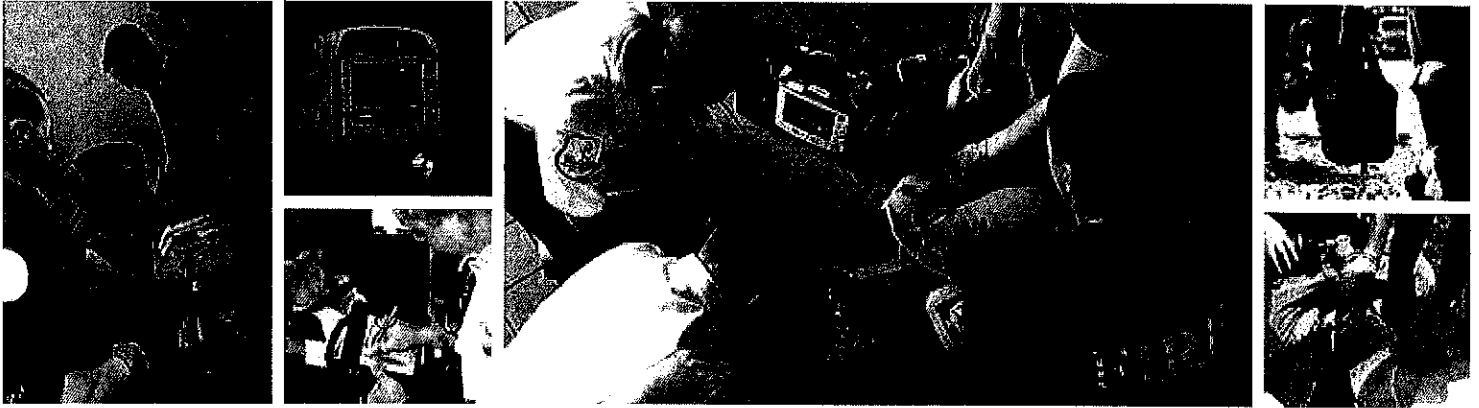
7. Describe any specific ongoing or open FDA inquiries into products proposed or accessories to products proposed.

ZOLL Medical Corporation does not have any open FDA inquiries into the proposed products or accessories.

8. Describe any general ongoing or open FDA inquiries that could impact your ability to service this contract.

There are currently no ongoing or open FDA inquiries.

**ZOLL**



## Section VI- Training & Implementation Plans



## C. IMPLEMENTATION PLAN

### Project Management Plan

ZOLL knows the importance of providing quality and timely services to customers. Our implementation approach will utilize a project management plan to be sponsored by Shannon Tinker (Manager, US EMS Clinical Deployment), coordinated by Barry Herbert (Arizona EMS Territory Manager), and managed by a dedicated Clinical Deployment Support Team member. The project deliverables will consist of three phases; buildout, training, and deployment.

The buildout phase will begin at ship date. Multiple members of the Clinical Deployment Support Team will be onsite for device assembly as well as site support for provider training. Sales Engineering will provide data integration support to include 12 Lead transmission and data upload to ePCR for this project. Thorough testing of all devices for functionality and data integration will be conducted by our support team members and ZOLL welcomes collaboration with Tucson Fire Department IT and Education Staff as required. All education content will be approved prior to delivery by TFD Training/Leadership and the ZOLL Territory Manager will coordinate all processes and communication of such. The deployment project manager will collaborate with TFD Leadership/Training Team to ensure all training sites are fully equipped and trainers are fully prepared to deliver provider training. It is ZOLL's goal to ensure the training facilities and curriculum all meet Tucson Fire Leadership standards prior to the delivery of education to healthcare providers.

As the training phase begins ZOLL will make computer based training available for Tucson Fire Department's frontline, supervisor, and Administration Staff (as needed). ZOLL's computer based training will allow Tucson Fire Department to set target dates for completion by staff and monitor their progress towards that goal. Each trainee will have a unique username/password and have access to the classes 24 hours per day, 7 days per week, on-duty or off. ZOLL will also conduct intensive "Train the Trainer" classes with select supervisory staff (as defined by Tucson Fire) which will allow your organization to develop in house "subject matter experts" as related to their cardiac monitor/defibrillators. Once both TFD and ZOLL are satisfied the devices have been tested, configured, data integration has been completed, and "training the trainers" is finished we will look to TFD Training Leadership to verify the computer based training has been completed to their satisfaction. Provider training will be scheduled in collaboration with TFD to ensure there will be no interruption of service delivery by healthcare providers towards a goal of achieving a 95% provider training completion rate by date to be determined. The training model used to achieve this goal (classroom based, scenario based, or combination of both) will be used in conjunction with the curriculum approved by both Tucson Fire and the project sponsor. Any providers unable to attend the deployment training will be determined by TFD and ZOLL will schedule additional classes to fully train the remaining staff.

To further demonstrate our commitment to a partnership with Tucson Fire Department and helping them to complete their mission statement we will utilize the same training phase implemented for deployment to successfully conduct follow-up training at a mutually agreeable date (6-9 months suggested). Our goal will be to enhance user functionality and ensure a "best practices" model is being followed. We would welcome feedback from supervisory staff, the Medical Director's Office, and healthcare providers during the interlude from deployment to follow-up education to help guide this training. The following is a draft of the proposed training outline:



## C. IMPLEMENTATION PLAN

### Deployment and Training

ZOLL Medical shall provide the deployment services outlined below:

- Equipment setup and configuration
- Product training
- End user training
- 12 Lead transmission setup and configuration
- Data integration setup

A comprehensive education and deployment plan will be developed to meet each customer's unique requirements. The plan will include a combination of end-user training and train-the-trainer programs.

Product training will be provided by ZOLL's EMS Clinical Deployment Team. The Clinical Deployment Team is a specialized team of clinical educators/product experts. A brief description of the team is as follows:

#### Specialized team of Clinical Educators

- Responsible for all EMS equipment deployed in North America
- All currently certified Paramedics
- Extensive EMS and Firefighting background
- Minimum credentials
  - National or State level certification at Paramedic level
  - 10 years of Paramedic level EMS experience
  - 10 years of EMS education experience at ALS level
- Numerous instructor credentials
  - ACLS, PALS, BCLS, BTLS, PHTLS
- Extensive specialized background
- Data Integration
  - 12 lead and case data
- Academia
- Project Management



## C. IMPLEMENTATION PLAN

### Proposed Training for Tucson Fire Department – 3 Weeks

Week 1

Equipment setup and configuration

Super-user Training for Clinical and Supervisory Staff – 3 training sessions – 3 hours per session

Weeks 2, 3 and (4 if needed)

End-user Equipment Training – 2 hours per session

Monday – 2 Training Sessions – Afternoon and Evening

Tuesday – 3 Training Sessions – Morning, Afternoon and Evening

Wednesday – 3 Training Sessions – Morning, Afternoon and Evening

Thursday – 3 Training Sessions – Morning, Afternoon and Evening

Friday – 2 Training Sessions – Morning and Afternoon

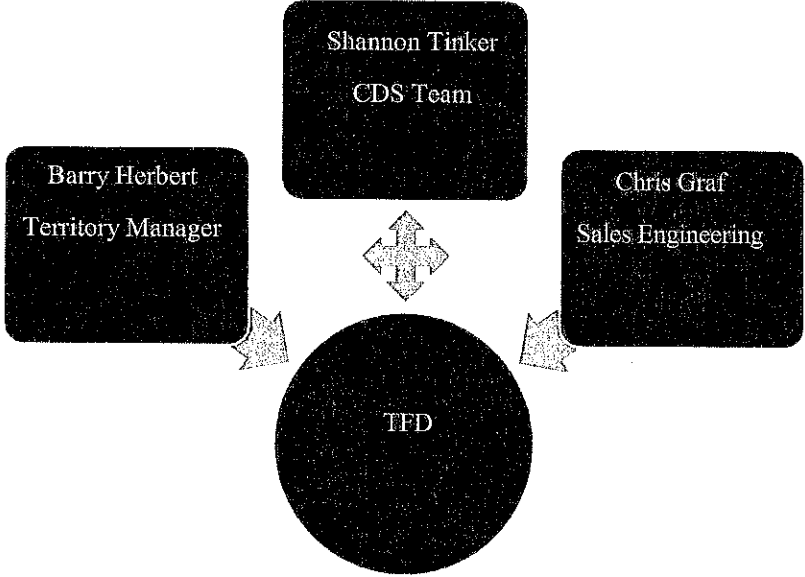
39 (52 if needed) Total End-user training sessions

ZOLL to provide go/no go check sheet, user confidence determination, and acceptance.

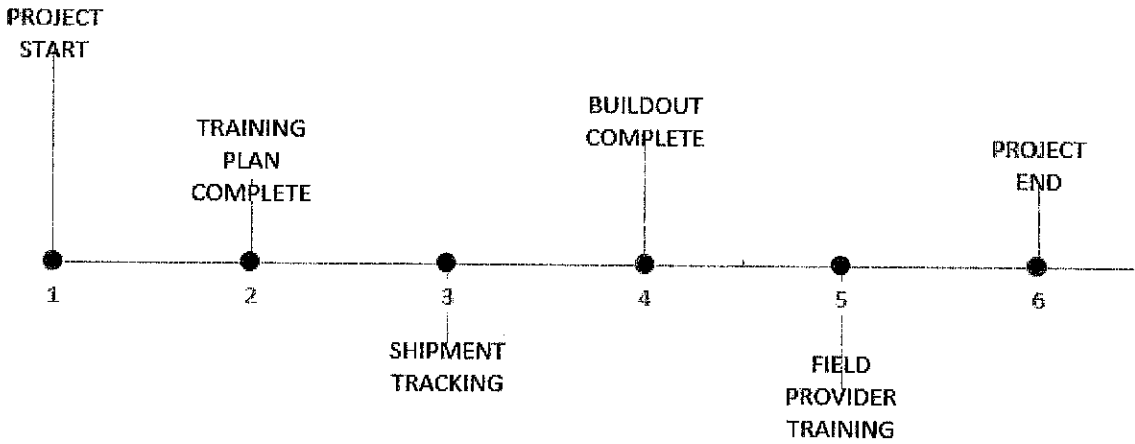
We believe this model of project management through a phased process will ensure successful data integration of the X-Series, give Tucson Fire the most flexibility to ensure the timely delivery of healthcare during deployment, while achieve the highest percentage of initial provider training. ZOLL is staffed with knowledgeable, extensively trained Clinical Deployment team who will define their success by Tucson Fire Department's success. Our dedication to seeing a seamless transition the ZOLL family of products will be the highest priority of every ZOLL employee involved. From shipping through follow up training we will all be committed to seeking a collaborative environment that will allow ZOLL to perform the work needed to help TFD continually provide world class mobile healthcare with the highest quality customer service and clinical excellence in a fiscally responsible manner.

## C. IMPLEMENTATION PLAN

### Communication and Project Team Structure



### Milestones of Project Management Plan



## C. IMPLEMENTATION PLAN



### Project Schedule and Milestones

WBS	Task	Resource Names	Start	Finish	Duration (days)	Percent Complete
1	Online X Series Training	Ronna Zaremski			30	0%
2	Needs Assessment	Shannon Tinker			5	0%
3	Train the Trainer	CDS Team			5	0%
M	Training Plan Complete	CDS Team/TFD			1	0%
M	Buildout Complete	CDS Team			-	-
4	X Series Shipment Confirmed	Barry Herbert			60	0%
5	Configuration	CDS Team			1	0%
6	Data Integration of 12 Lead and ePCR	Chris Graf				
7	Assembly	CDS Team			5	0%
M	Field Provider Training Begins	CDS Team			45	-



## **X Series® Skills Competency**

### **Instructions to participant:**

In this session, you will be tested using the ZOLL X Series Monitor/Defibrillator and a simulated patient. The simulated patient encounter is meant to test your ability to properly use the features of the X Series and to demonstrate competence in the use of the device. The patient's rapidly changing condition is not meant to reflect your performance whatsoever. Feel free to ask questions about your patient's condition. However, I cannot provide you with any additional information beyond what is contained in the scenario below. You may have as many assistants as needed and you will have 10 minutes to complete this scenario. You are required to print a Treatment Summary Report at the end of the scenario. Do you have any questions?

**Please take a moment to check your equipment, remove, check, and reinsert the battery, perform a 30J Defib test and clear the Log.**

### **Scenario:**

You are dispatched to a community hospital for the interfacility transport of a 48-year old male with a confirmed MI. Revascularization was attempted in the Cardiac Cath Lab without success. Patient is now being transported to the Regional Cardiac Care center for CABG. Patient has a confirmed Septal / Anterior MI and has had several episodes of Ventricular Tachycardia, requiring Amiodarone administration. The patient is not complaining of pain at the time of transport. You find the patient on Heparin, Nitro and Amiodarone. The patient has a CVP line in place.

**After candidate completes steps 1 through 6, assume crew is transporting patient, the patient begins complaining of Chest Pain 7/10. Treatment should be per local protocol. Participant should acquire and interpret 12 Lead EKG. Once 12 Lead EKG interpretation is done, and treatment has been rendered to your satisfaction, the patient has a sustained episode of V-Tach with pulses. Patient becomes lethargic and hypotension. Participant should Synchronize and Cardiovert patient, after cardioversion, patient deteriorates to V-Fib. Provider should defibrillate patient – require at least two defibrillations to ensure provider comfort with energy settings. After second defibrillation, patient converts to 3<sup>rd</sup> degree AV block. Provider should initiate pacing. Ensure that provider can turn pacer on, identifies electrical capture, confirms mechanical capture, and can adjust pacer rate as appropriate. Reassess all vital signs. Print Treatment Summary Report.**



### X Series Skills Competency

Name: \_\_\_\_\_ Evaluator: \_\_\_\_\_

Date: \_\_\_\_\_ Time start: \_\_\_\_\_ Time end: \_\_\_\_\_

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**COMPLETED**

- 1. Powers equipment on. Verifies System Self Check.
- 2. Assesses all Vital Signs by placing probes, cannulas and cuffs correctly
- 3. Applies and attaches 4 Lead ECG Cable
- 4. Properly interprets initial EKG rhythm
- 5. Properly connects IBP transducer, zero's and labels IBP channel
- 6. Reassesses patient, EKG leads and vital signs and sets NIBP to Auto cycle Q5
- 7. Correctly interprets 12 Lead EKG
- 8. Properly treats rhythm and manages patient condition appropriately
- 9. Recognizes change in EKG rhythm
- 10. Identifies need, and Cardioverts patient at appropriate energy
- 11. Identifies need, and Defibrillates patient at appropriate energy
- 12. Properly treats rhythm and manages patient condition appropriately
- 13. Initiates/terminates CPR when necessary
- 14. Recognizes change in EKG rhythm
- 15. Initiates pacing, achieves electrical capture, confirms mechanical capture
- 16. Reassesses all vital signs
- 17. Prints a Treatment Summary Report

\*Utilize local EMS protocol and/or 2005/2010 American Heart Association Guidelines

<b>SCENARIO PATHWAY</b>
-------------------------

- |  |                       |
|--|-----------------------|
| <b>1. <u>Normal Sinus Rhythm</u></b>   | <b>MONITORING</b>     |
| a. Obtain vital signs and 4 Lead EKG<br>b. Vitals variable, use volunteer or facilitator for assessment<br>c. Obtain and interpret 12 Lead EKG<br>d. Change rhythm to Ventricular Tachycardia  |                       |
| <b>2. <u>Ventricular Tachycardia WITH PULSES</u></b>   | <b>CARDIOVERSION</b>  |
| a. Identify rhythm change<br>b. Administer sedative (optional)<br>c. Apply Multi-function Electrode (or paddles) to patient's bare chest<br>d. Synchronize and cardioversion 70 J to 100J<br>e. Change EKG rhythm to Ventricular Fibrillation  |                       |
| <b>3. <u>Ventricular Fibrillation</u></b>  | <b>DEFIBRILLATION</b> |
| a. Defibrillation 120 J<br>b. Treat according to local protocols<br>c. Defibrillation 150 J<br>d. Change EKG rhythm to 3 <sup>rd</sup> Degree AV Block   |                       |
| <b>4. <u>3<sup>rd</sup> Degree AV Block</u></b>  | <b>PACING</b>         |
| a. Start Pacer<br>b. Increase mA until electrical capture is achieved<br>c. Confirm mechanical capture is achieved<br>d. Assess vital signs<br>e. Verbalize how to check underlying rhythm if necessary<br>f. Print a Treatment Summary Report |                       |



### LEAP Program

The LEAP Program is an interactive partnership developed by ZOLL's Clinical Deployment Team to instill confidence in the X Series user interface and reestablish a high level of satisfaction with the overall ZOLL experience. The program is typically implemented at the request of a Territory Manager when a ZOLL partner experiences challenges after initial implementation. The customer dissatisfaction level may range from simple misinformation requiring additional education to full on escalation of ZOLL as an organization not meeting the expectations of the client. The CDS team member steps into a role of customer advocacy through needs assessment and realigning expectations based upon specific feedback.

**LEAP** is a simple acronym with each letter representing a specific action:

**L** - Listen to the client and **All** of their concerns. This is covered on the first day as an open forum with participants ranging from field providers to senior management.

**E** - Evaluate and educate. Determine level of user's understanding, expectation, and practices. Differentiate and separate clinical applications from technical understanding. Train or reintroduce the crews to a higher level of understanding and reset performance expectations. Share best practices that lead to quality performance. This should be rolled out in the form of a classroom setting with ample hands on time.

**A** - Apply the newly learned techniques in real world environment. This should include ride time as well as individual training to promote confident interaction with the device.

**P** - Practice the recently implemented best practices with vigilance and consistency.

The program requires one team leader from the clinical deployment team who will guide the process and serve as point person for the short term basis. That designee will be well versed in partnering with customers to develop a plan to correct any and all concerns expressed by the client. This format delivers a clean and professional approach to the customer who has already used available means with in ZOLL.

The three day approach will first begin with a provider feedback session to listen and put in writing the concerns of ALL providers. That afternoon consists of class work and ride time. The CDS leader works closely with the TM and ZOLL departments to develop a plan of action addressing the concerns of the client. That member will share the completed plan with all necessary departments that, in turn, will be given the opportunity to contribute ideas and solutions to develop a solid plan of action focused on customer satisfaction.

The second day provides opportunity for additional education or ride time depending on what the client wants or needs. The CDS member will be working in the back ground with mission essential departments at ZOLL promoting a unified, team approach laser focused on addressing the needs of the client. Once a plan is ratified the CDS member will present the plan of action to the client and implement the agreed upon remediation to the customer. This plan will include a 30 and 60 day benchmark.

On day three we will finish with the customer on site. We will address any last minute issues and implement the online survey recording any and all concerns of the crews in real time for the CDS team to address. This survey will be revealed to the crews and forward facing users of the devices. That survey will be used to identify any outliers that may come up during the next three weeks. The survey is routed directly to one of two CDS members who will follow up with the crews in a direct and immediate manner. The duration of the survey is limited to three weeks. Once the survey window is closed, the CDS team will review and calculate the findings providing all results and discoveries to all involved. At this point, the CDS team member's role diminishes to encourage and maintain direct interaction with the TM beyond the initial LEAP process.

**8. RFP#171769**

# CITY OF TUCSON

## REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER: 171769  
PROPOSAL DUE DATE: Wednesday, June 14, 2017, AT 4:00 P.M.,  
Local AZ Time  
PROPOSAL SUBMITTAL LOCATION: Department of Procurement  
255 W. Alameda, 6<sup>th</sup> Floor, Tucson, AZ 85701  
MATERIAL OR SERVICE: Cardiac Monitors  
PRE-PROPOSAL CONFERENCE DATE: Thursday, June 01, 2017  
TIME: 2:00 P.M., Local AZ Time  
LOCATION: City Hall, Procurement 6<sup>th</sup> Floor East Conference  
Room, 255 W. Alameda, Tucson, AZ 85701  
SENIOR CONTRACT OFFICER: Jenn Myers  
TELEPHONE NUMBER: (520) 837-4137  
Jenn.Myers@tucsonaz.gov

A copy of this solicitation and possible future amendments may be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number. The City does not mail out Notices of available solicitations via the U.S. Postal Service. Email notifications are sent to those interested offerors who are registered with us and who have selected email as their preferred delivery method. To register, please visit [www.tucsonprocurement.com](http://www.tucsonprocurement.com), click on Vendors, then click on Vendor Registration. To update an existing record, click on Vendors, click on What's New?, and read the section titled "Notice of Solicitations." You may also call (520) 791-4217 if you have questions.

Competitive sealed proposals for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

Proposals must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Proposals must be submitted in a sealed envelope. The Request for Proposal number and the offeror's name and address should be clearly indicated **on the outside** of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

**\*\*\*\*ALERT\*\*\*\***

Effective July 1, 2014, the City of Tucson's Small Business Enterprise (SBE) and Disadvantaged Business Enterprise (DBE) Program has moved to the Department of Procurement and has become the Business Enterprise and Compliance Program. To contact them, please call (520) 837-4000 or visit the website at [http://www.tucsonprocurement.com/Bidders\\_Page.aspx](http://www.tucsonprocurement.com/Bidders_Page.aspx) and click on SBE or DBE.

JM/car

PUBLISH DATE: Monday, May 22, 2017

## INTRODUCTION

The City of Tucson intends to establish an annual requirements contract for the purchase of **CARDIAC MONITORS AND AUTOMATED ELECTRONIC DEFIBRILLATORS (AED)**. This contract will include all accessories, supplies and services necessary to operate the devices.

Tucson Fire Department currently operates 55 cardiac monitors and 56 AED's. This equipment is an important part of their medical treatment services. The Tucson Fire Department intends to purchase up to 70 new cardiac monitors and up to 60 new AEDs for use in a pre-hospital work environment. These new devices will replace the existing inventory.

## SCOPE OF WORK

### TECHNICAL SPECIFICATIONS

The devices must include all necessary cables, print capabilities, defibrillation and pacing accessories, Li-ion batteries, carrying case, and other accessories needed to utilize all required features.

#### Required Features:

#### **Cardiac Monitor (fully equipped shall include all listed features)**

- 12 Lead EKG
- SpO2
- ETCO2 with Capnography waveform
- NIBP
- Pulse Rate
- CPR device (integrate with monitor) to measure CPR quality, depth, rate, interruptions, and release
- AED mode for pediatric patients
- MAP (mean arterial pressure)
- Pediatric functionality (Ability to configure monitor for both adult and pediatric patients)
- All necessary storage and carrying bags.
- All necessary battery and battery support units for each device
- Secondary battery or batteries to be used as in-field back ups
- All required cables, connectors, or other adjuncts necessary to operate and download the device
- Maintenance package and warranty of no less than three (3) years past product's availability.
- Battery maintenance, reconditioning and replacement program and equipment.
- Pacing
- Defibrillation (Biphasic)
- Serial EKG
- Temperature (optional feature)
- SpCO (optional feature)
- SpMet (optional feature)

#### **Please provide the following information:**

- Weight fully loaded with all features and supplies: \_\_\_\_\_
- Dimensions with all required case components: \_\_\_\_\_
- Battery requirement: \_\_\_\_\_

#### **AED**

- Rhythm display
- Adult and Pediatric Use
- Pads integrate with Cardiac Monitor
- All necessary storage and carrying bags.
- All necessary battery and battery support units for each device
- Secondary battery or batteries if required

#### **Please provide the following information:**

- Weight fully loaded with all adjuncts and supplies: \_\_\_\_\_
- Dimensions with all required case components: \_\_\_\_\_
- Battery requirement: \_\_\_\_\_

## SCOPE OF WORK

### Data Collection and Management

1. Data from the cardiac monitor and AED shall be retrievable through either a wireless or wired option from the device.
2. Data from the cardiac monitor and AED shall automatically upload to an enterprise records management system when connected to a network.
3. Cardiac Arrest and 12 lead data shall be accessible through an enterprise records management system for research and Public Records Requests.
4. Both the cardiac monitor and the AED devices shall have the ability to upload patient assessment and intervention actions through a wireless or wired option for medical records reports, quality control, and quality improvement programs.
5. Contractor shall provide any accessories, hardware and/or software systems necessary for the Fire Department to readily retrieve, transfer and/or upload the data.
6. The enterprise level records management system should be accessible via the web, be HIPAA compliant, and allow for role dependent secure access.
7. System should have an existing interface with Zoll's RescueNet Tablet ePCR system.
8. All data must reside within the United States of America at all times with providers that are certified to host medical data.
9. Records Management system must have ability to show CPR "report card" indicating quality of CPR, depth, rate, interruptions, and release.
10. Ability to transmit 12-leads from the field.
11. Provide data storage solution (either a physical server or cloud solution) for data management systems.

### Service/Maintenance

1. Contractor shall provide warranty and service contract for cardiac monitor, AEDs, adjuncts and batteries.
2. Contractor shall provide on-site service/maintenance on devices as recommended by the product manufacturer with a minimum of 1-per year per device.
3. Contractor shall provide manufacturer certified service technicians to perform repairs and service on the selected monitor and AED
4. Contractor shall make available loaner devices at no cost as needed for department owned devices out of service for extended repair.
5. Contractor shall include software updates for both the devices and the records management system free of charge as part of the maintenance agreement.
6. Contractor shall provide a written process to be instituted following an equipment malfunction. Process shall be inclusive of operator actions, vendor actions and notification responsibilities.

### Training

1. Contractor shall provide onsite training to TFD personnel by authorized vendor representatives.
2. Training shall include in-house operator level training for up to 250 paramedics. This training shall cover all operational functions of the device(s).
3. Training shall include supervisor training for up to 20 supervisors. This training shall include basic device configuration for crew identification, hospital destination, and any other field/user level adjustments necessary to update device(s) and any other more advanced administrative functions.
4. Training shall include systems administration for the records management system and device configuration and integration.
5. Training may be provided through a train-the-trainer model as agreed upon by TFD.
6. Contractor shall provide a suitable on-line class with all training material. This class could augment initial training, at TFD's discretion, as well as be used for future employees' training.
7. Training shall include the process(es) to be followed post device malfunction.

**Implementation**

1. Contractor shall work with TFD to provide an implementation plan and time line for TFD to transition into the new devices to include device delivery, configuration, training, deployment, go/no go check sheet, user confidence determination, and acceptance.
2. Contractor shall provide contingency plan for failed implementation.

**Lease to Purchase**

1. Contractor shall offer an optional lease to purchase program. This program shall include a minimum of a two (2) year lease to purchase option. All terms of the lease shall be provided with the response to the RFP. The terms shall not include a prepayment penalty.

## INSTRUCTIONS TO OFFERORS

1. **DEFINITION OF KEY WORDS USED IN THE SOLICITATION:**  
For purposes of this solicitation and subsequent contract, the following definitions shall apply:  
**City:** The City of Tucson, Arizona  
**Contract:** The legal agreement executed between the City and the Contractor/Consultant. The Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.  
**Contractor/Consultant:** The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.  
**Contract Representative:** The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and is responsible for monitoring and overseeing the Contractor's performance under this Contract.  
**Director of Procurement:** The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.  
**May:** Indicates something that is not mandatory but permissible.  
**Offeror:** The individual, partnership, or corporation who submits a proposal in response to a solicitation.  
**Shall, Will, Must:** Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.  
**Should:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.
2. **PRE-PROPOSAL CONFERENCE:** If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.
3. **INQUIRIES:** Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.
4. **AMENDMENT OF REQUEST FOR PROPOSAL:** The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.
5. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.
6. **PREPARATION OF PROPOSAL:**
  - A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
  - B. At a minimum, your proposal should include the signed Offer and Acceptance form, signed copies of any solicitation amendments, completed Price Page and your response to all evaluation criteria.
  - C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.

- D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
  - E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
  - F. Periods of time, stated as a number of days, shall be in calendar days.
  - G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
  - H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
  - I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.
7. **PAYMENT DISCOUNTS:** Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period. The payment discount shall apply to all purchases and to all payment methods.
8. **TAXES:** The City of Tucson is exempt from federal excise tax, including the federal transportation tax.
9. **PROPOSAL/SUBMITTAL FORMAT:** An original and 4 copies (5 total) of each proposal should be submitted on the forms and in the format specified in the RFP. Offerors shall also submit one electronic copy of the proposal on cd, disc or zip disc in MS Office 2003 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. The original copy of the proposal should be clearly labeled "Original" and shall be single-sided, three hole punched and in a binder. The material should be in sequence and related to the RFP. **The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's response to the Evaluation Criteria including the completed Price Page.** Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.
10. **EXCEPTIONS TO CONTRACT PROVISIONS:** A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.
11. **PUBLIC RECORD:** All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.
12. **CONFIDENTIAL INFORMATION:** The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.
13. **CERTIFICATION:** By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:
- A. The submission of the offer did not involve collusion or other anti-competitive practices.
  - B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
  - C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
  - D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.

- 14. WHERE TO SUBMIT PROPOSALS:** In order to be considered, the Offeror must complete and submit its proposal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The Offeror's proposal shall be submitted in a sealed envelope. The words "SEALED PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.
- 15. LATE PROPOSALS:** Late proposals will be rejected.
- 16. OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.
- 17. WITHDRAWAL OF PROPOSAL:** At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
- 18. DISCUSSIONS:** The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
- 19. TAX OFFSET POLICY:** If applicable, in evaluating price proposals, the City shall include the amount of applicable business privilege tax, except that the amount of the City of Tucson business privilege tax shall not be included in the evaluation.
- 20. CONTRACT NEGOTIATIONS:** Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).
- 21. VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.
- 22. CITY OF TUCSON BUSINESS LICENSE:** It is the responsibility of the Contractor to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email at [tax-license@tucsonaz.gov](mailto:tax-license@tucsonaz.gov).
- 23. UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.
- 24. AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:
- (1) waive any immaterial defect or informality; or
  - (2) reject any or all proposals, or portions thereof; or
  - (3) reissue the Request for Proposal.
- A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.
- 25. PROPOSAL RESULTS:** The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.

- 26. PROTESTS:** A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Proposal shall be received at the Department of Procurement not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:
- A. The name, address, and telephone number of the protestant;
  - B. The signature of the protestant or its representative;
  - C. Identification of the Request for Proposal or Contract number;
  - D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
  - E. The form of relief requested.

## LIVING WAGE REQUIREMENT

Chapter 28, Article XIV of the Tucson Procurement Code requires that a living wage be paid to certain employees of Contractors and their applicable subcontractors who are performing services for the City of Tucson. This solicitation, and the resulting Contract, is subject to the referenced Article. By signing the Offer and Acceptance page, Bidder/Offeror agrees to comply with the requirements of the Article.

In accordance with Sec. 28-155 of the Tucson Procurement Code, an eligible employee is defined as an employee of the Contractor or their subcontractor who:

- (a) is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation;
- (b) expends chargeable time providing services to the City and on City property;
- (c) Is at least sixteen (16) years of age.

Eligible employees shall be paid no less than the living wage for the time they spend providing services to the City on City property. In accordance with Sec. 28-157 of the Tucson Procurement Code, the living wage is as follows:

- If health benefits are offered, and if the Contractor pays no less than fifty (50) percent of the eligible employee's health benefits premium, a wage of no less than \$10.39 per hour; or
- If no health benefits are offered, or if the Contractor pays less than fifty (50) percent of the eligible employee's health benefits premium, a wage of no less than \$11.62 per hour.

Proof of compliance with this policy shall be provided by the successful Bidder/Offeror upon notification by the City of its intent to award a Contract.

Notwithstanding the Severability clause under the Standard Terms and Conditions section of this document, if the provisions of this clause become unenforceable for any reason, the City reserves the right to terminate this Contract without penalty or liability. In the event the City negotiates an adjustment to the terms, conditions, or price acceptable to the parties, then this Contract shall continue until expiration.

In accordance with Sec. 28-158 of the Tucson Procurement Code, the following shall apply to compliance with wage requirement:

The City's Director of Procurement shall monitor compliance, including the investigation of claimed violations, and may promulgate administrative rules and regulations to implement and enforce this Article. In the event of any violation of the provisions set forth in this Article, the responsible Contractor and any applicable subcontractors shall be liable for the unpaid wages and shall pay the eligible employee any amounts underpaid. The City's Director of Procurement is additionally authorized to take any one or more of the following remedies in the event of a written determination of noncompliance:

- (a) Liquidated damages paid to the City in the amount of \$50.00 for each incidence of non-compliance for each day of non-compliance and/or each day it continues;
- (b) Suspension of further payments under the Contract until the violation has ceased;
- (c) Suspend and/or terminate the Contract for cause; and/or
- (d) Debar or suspend the Contractor or subcontractor from future City contracts pursuant to Tucson Procurement Code, Chapter 28, Article IX.

Protests or appeals of the Director's remedies for non-compliance shall be in accordance with Article IX.

In accordance with Sec. 28-159 of the Tucson Procurement Code, the following shall apply to records:

- (a) The Contractor and any applicable subcontractor shall make the records required available for inspection, copying, or transcription by authorized representatives of the City's Director of

Procurement, and shall permit such representatives to interview employees during working hours on the job. If the Contractor and any applicable subcontractor fails to submit the required records or make them available, the Director may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to Article IX.

- (b) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all eligible employees. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

All inquiries regarding the Living Wage program may be directed to the Contract Officer responsible for this solicitation.

## CITY OF TUCSON CERTIFICATION OF LIVING WAGE PAYMENTS

*(This form must be completed by the Contractor and each applicable subcontractor.)*

**Contract Number: 171769**

**Contractor or Sub Name:** \_\_\_\_\_

### (Please Check Only One of the Following Two Options)

\_\_\_\_\_ I do hereby agree to pay all eligible employees working on the above-referenced contract a minimum of \$10.39 per hour and provide health benefits. I also agree to pay at least 50% of the eligible employees' health benefits premium. Our firm's health insurance provider(s) are listed below:

Name of Health Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Plan or Program Number: \_\_\_\_\_

Monthly premium paid by employer: \_\_\_\_\_ Monthly premium paid by employee \_\_\_\_\_

Name of Health Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Plan or Program Number: \_\_\_\_\_

Monthly premium paid by employer: \_\_\_\_\_ Monthly premium paid by employee \_\_\_\_\_

\_\_\_\_\_ I do hereby agree to pay all eligible employees working on the above-referenced contract a minimum of \$11.62 per hour. I **do not** offer health benefits to eligible employees working on this contract and/or I **do not** pay at least 50% of the eligible employees' health benefits premium.

\_\_\_\_\_  
(Contractor /Sub-Contractor Name)

by \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Title)

## PROPOSAL EVALUATION REQUIREMENTS

### I. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

- A. Method of Approach
- B. Qualifications & Experience
- C. Price Proposal

### II. REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested and must contain, at a minimum, the following:

#### A. Method of Approach

1. Offeror shall prepare a detailed Method of Approach to the Scope of Work, which clearly identifies the services proposed to be performed by the Offeror. This section should confirm Offeror's understanding of the RFP and the needs of the Tucson Fire Department. This should address in depth how Offeror plans to meet the requirements of each of the services and activities as outlined in the Scope of Work of the RFP. The method and approach for each service should be addressed in a manner that reflects understanding and commitment to providing services as needed in a professional manner in the specified time frame.
2. Describe the products/brands that you are offering. Please provide product brochure, descriptive literature, and/or a product catalog
3. Describe the ordering process Tucson Fire employees should follow.
4. Describe any alternative methods for purchase, such as Internet ordering
5. Provide a method for delivery of products.
6. Provide a description of proposed quality control practices in addition to the requirements described in the Scope of Work.
7. Describe how you will keep the City updated on all updated technology.
8. Describe how data will be collected, stored and retrieved for use by the Tucson Fire Department.
9. Describe how CPR data is collected including devices or adjuncts required to collect CPR data, how the data is stored, transferred, and what software is required to retrieve the data for QA purposed and public record release.
10. Describe each step from turning on the device to capturing and storing a 12 lead, including application and use of the CPR adjuncts and other accessory devices. This must include entering a patient's name.
11. Describe the warranty offered on devices including any limitation to warranty repairs and or replacement.
12. Describe the maintenance on software systems. Submit any Software License Agreements, Software Maintenance Agreements, Service Level Agreements, etc. for the City's consideration. Any agreement that is not submitted prior to contract award may not be considered after contract award.
13. Describe the user management and user definition for the records management system.
14. Describe how devices get assigned to users.
15. Describe how devices get subscribed to the server/cloud level system.
16. Describe your backup and recovery approach.
17. Describe your device security approach.
18. Describe your server/cloud access management system.
19. Describe how a specific set of data (i.e., 12 Lead can be associated with a patient from the TabletPCR system.
20. Describe the training that will be provided by the Contractor to TFD personnel.
21. Describe the implementation plan and time line for TFD.

22. Describe how offeror shall repair/maintain devices on City property including the turnaround time when calls are made by TFD personnel for maintenance including processing, timelines and associated cost for repairs.
23. Describe how loaner devices will be provided.
24. Describe the weight of the devices.
25. Describe the connectivity options for the devices.
26. Describe how data will be compatible with the Zoll RescueNet TabletPCR application. Please specify how this integration would work.
27. Please describe how you would enable an interface with Zoll's RescueNet TablePCR system if it does not yet exist.
28. Contractor shall describe cloud storage options including cloud storage capability, download and access process, record retrieval, records interface with EPCR, and data retention period.
29. If a cloud based solution is offered how will you manage your backups and ensure availability? Where are your primary and secondary data centers.
30. Provide details and terms of leasing options.

**B. Qualifications & Experience**

1. Provide a general overview of your company, including number of years in business, corporate headquarters location; etc. Provide a brief history of the organization.
2. Provide resumes and/or biographies for all key personnel, including supervisors, who will be assigned to this contract.
3. Indicate the office locations of the Key Personnel to be assigned to the account and identify the lead person.
4. Provide at least three (3) references for work that is similar in scope to the Scope of Work of this contract. Preferably, the City seeks 3 references from fire agencies that are utilizing the same devices proposed herein, as well as the Zoll EPCR. For each reference, include name, telephone number, and email address of contact person.
5. If the use of subcontractors is proposed, provide the information requested in items 1 through 4 above for each subcontractor.
6. Offerors who submit a proposal as a manufacturer's representative must include a letter from each manufacturer involved. The letter shall certify that the vendor is authorized to provide the specific products presented, that the vendor is authorized to submit a proposal on such products, and guarantees that should the vendor fail to fulfill any obligations established as a result of a Contract award, the manufacturer, upon assignment by the City, will either assume such obligations or provide an alternate authorized vendor for the balance of the Contract period. In the event of such an assignment, all other terms and conditions of the Contract shall remain the same.
7. Describe any specific ongoing or open FDA inquiries into products proposed or accessories to products proposed.
8. Describe any general ongoing or open FDA inquiries that could impact your ability to service this contract.

**C. Price Proposal**

1. Provide price proposal as requested on the Price Page attached herein.
2. As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by \_\_\_\_\_%, if payment is made within \_\_\_\_\_ days. These payment terms shall apply to all purchases and to all payment methods.
3. Cooperative Purchasing Program: Will your firm provide the City of Tucson, as the lead agency on this regional contract, a rebate in the form of a percentage of sales based upon the other agencies sales?

\_\_\_\_\_Yes \_\_\_\_\_No If yes, state proposed percentage: \_\_\_\_\_%

4. Will payment be accepted via commercial credit card? \_\_\_\_\_Yes \_\_\_\_\_No
  - a. If yes, can commercial payment(s) be made online? \_\_\_\_\_Yes \_\_\_\_\_No
  - b. Will a third party be processing the commercial credit card payment(s)? \_\_\_\_\_Yes \_\_\_\_\_No
  - c. If yes, indicate the flat fee per transaction \$\_\_\_\_\_ (as allowable, per Section 5.2.E of Visa Operating Regulations).
  - d. If "no" to above, will consideration be given to accept the card? \_\_\_\_\_Yes \_\_\_\_\_No
5. Does your firm have a City of Tucson Business License? \_\_\_\_\_Yes \_\_\_\_\_No  
If yes, please provide a copy of your City of Tucson Business license.

### III. GENERAL

#### A. Shortlist:

The City reserves the right to shortlist the offerors on the stated criteria. However, the City may determine that shortlisting is not necessary.

#### B. Interviews:

The City reserves the right to conduct interviews with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview process.

#### C. Additional Investigations:

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

#### D. Prior Experience:

Experiences with the City and entities that evaluation committee members represent and that are not specifically mentioned in the solicitation response may be taken into consideration when evaluating offers.

#### E. Multiple Awards:

To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

## SPECIAL TERMS AND CONDITIONS

- 1. SAFETY STANDARDS:** The Bidder/Offeror shall certify that the equipment being bid/offered is designed and includes operating features that comply with the safety standard promulgated under the Federal Occupational Safety and Health Act (OSHA). If the equipment being bid/offered is governed by OSHA regulations the successful Bidder/Offeror is required to submit a certificate stating that such equipment complies with applicable OSHA standards.

During the term of this Contract, should there be modifications in federal and/or state laws and regulations regarding safety standards or other specifications and marketing procedures for the contracted item(s), the City of Tucson reserves the right to amend the Contract to provide for the delivery of items which conform to such changes. As a result, the City will negotiate any necessary price changes with the Contractor. Should negotiations fail the City may cancel the Contract for the affected items.

- 2. DEFECTIVE PRODUCT:** All defective products shall be replaced and exchanged by the Contractor. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. All replacement products must be received by the City within seven (7) days of initial notification.
- 3. WARRANTY:** Bidder/Offeror shall warrant that all equipment and parts furnished in their bid/offer are newly manufactured and free from defects in material and workmanship for no less than one (1) year from the date the equipment is delivered or installed. Warranty shall also guarantee accepted trade standards of quality, fitness for the intended uses, and conformance to promises or specified specifications. No other express or implied warranty shall eliminate the Contractor's liability as stated herein.
- 4. EQUIPMENT/RECALL NOTICES:** In the event of any recall notice, technical service bulletin, or other important notification affecting equipment purchased from this contract, a notice shall be sent to the Contract Representative. It shall be the responsibility of the contractors to assure that all recall notices are sent directly to the agencies Contract Representative.
- 5. FOB DESTINATION FREIGHT PREPAID:** Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.
- 6. PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.
- 7. TERM AND RENEWAL:** The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

- 8. COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See [http://www.tucsonprocurement.com/coop\\_partners.aspx](http://www.tucsonprocurement.com/coop_partners.aspx) and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf> for a listing of participating agencies. The parties agree that these lists are subject to change.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

## STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
7. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
8. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
9. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
10. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
  - A. Amend the contract or enter into supplemental verbal or written agreements;
  - B. Grant time extensions or contract renewals;
  - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

11. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

12. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
13. **DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
14. **EQUAL PAY:** The Contractor shall comply with the applicable provisions of the Equal Pay Act of 1963 (Pub.L. 88-38, 29 U.S.C. section 206(d)); Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352, 42 U.S.C. 2000e *et seq.*; and, the Lily Ledbetter Fair Pay Act of 2009 (Pub.L. 111-2).
15. **EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
16. **FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

17. **FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

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

18. **GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
19. **HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.
20. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and

employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The Contractor agrees to waive all rights of subrogation against the City of Tucson, its agents, representatives, officers, directors, officials, employees and volunteers for losses arising from the work performed by the Contractor for the City of Tucson.

Contractor is responsible for compliance with the Patient Protection and Affordable Care Act (ACA), for its employees in accordance with 26 CFR §54. 4980H. Additionally, Contractor is responsible for all applicable IRS reporting requirements related to ACA. If Contractor or any of Contractor's employees is certified to the City as having received a premium tax credit or cost sharing reduction which contributes to or triggers an assessed penalty against the City, or Contractor fails to meet reporting requirements pursuant to section 6056 resulting in a penalty to City, Contractor indemnifies City from and shall pay any assessed tax penalty.

- 21. INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

- 22. INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.
- 23. INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.
- 24. ISRAEL BOYCOTT DIVESTMENTS:** Acceptance of the contract warrants that the vendor is in compliance with A.R.S. § 35-393 and does not participate in a boycott of Israel as that term is defined within A.R.S. § 35-393.
- 25. LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.
- 26. LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.
- 27. NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.
- 28. NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.

- 29. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.
- 30. PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.
- Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The invoice shall not be dated prior to the receipt of goods or completion of services.
- The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.
- The Contractor's payment terms shall apply to all purchases and to all payment methods.
- 31. PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.
- 32. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
- 33. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.
- 34. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.
- 35. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- 36. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
- 37. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.
- 38. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- 39. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All

subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.

**40. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.

**41. TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

**42. TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

**43. WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

**PRICE PAGE**

*Fee must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, materials, printing, travel and mileage, postage, etc.*

The quantities shown are estimates only and the City reserves the right to increase or decrease amounts as circumstances may require.

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>ESTIMATED ANNUAL QUANTITY</u>	<u>UNIT PRICE</u>	<u>EXTENDED PRICE</u>
1.	Cardiac Monitor (fully equipped)	70 ea	\$ _____	\$ _____
2.	Lithium Ion Battery (additional)	140 ea	\$ _____	\$ _____
3.	AED (fully equipped)	60 ea	\$ _____	\$ _____
<b>GRAND TOTAL \$</b>				_____

Note: fully equipped means all necessary accessories such as carrying case, batteries (including secondary set) cables, finger probes, BP cuff, battery support unit and/or other adjunct required to utilize all functions of the device.

1. Additional Accessories, etc. (Information only)				
•	Monitor Lithium Battery	1 ea	\$ _____	\$ _____
•	AED Battery Replacement	1 ea	\$ _____	\$ _____
•	SpMET(with adjuncts)	70 ea	\$ _____	\$ _____
•	SpCO (with adjuncts)	70 ea	\$ _____	\$ _____
•	Temperature	70 ea	\$ _____	\$ _____
•	BP Cuff Replacement	1 ea	\$ _____	\$ _____
•	Cable Set Complete	1 ea	\$ _____	\$ _____
•	Defib Pads (set)	1 ea	\$ _____	\$ _____
•	Monitor Replacement case	1 ea	\$ _____	\$ _____
•	AED Replacement case	1 ea	\$ _____	\$ _____

## OFFER AND ACCEPTANCE

### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

\_\_\_\_\_  
Company Name

Name: \_\_\_\_\_

\_\_\_\_\_  
Address

Title: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Authorized to Sign

Fax: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

E-mail: \_\_\_\_\_

\_\_\_\_\_  
Title

### ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. 171769 - \_\_\_\_\_.

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF TUCSON**, a municipal corporation

Awarded this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
As Tucson City Attorney and not personally

\_\_\_\_\_  
Marcheta Gillespie, CPPO, C.P.M., CPPB, CPM  
As Director of Procurement and not personally