

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
CUMMINS, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this _____ day of _____, 2022, between the City of Glendale, an Arizona municipal corporation (the "City"), and Cummins, Inc., a(n) Indiana corporation authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

- A. On September 16, 2020 under S.A.V.E Cooperative Purchasing Agreement, the Maricopa County entered into a contract with Contractor to purchase the goods and services described in the Heavy Duty Fleet, Construction and Agricultural/Industrial Parts, Service & Accessories Contract, Contract No. 200209-C ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

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

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was September 16, 2020, until the date the contract expires on September 30, 2022 unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond September 30, 2025. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until

1/2/2020

September 30, 2022. The City may renew the term of this Agreement for three (3) one-year periods until the Cooperative Purchasing Agreement expires on September 30, 2025. Glendale renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.
 - A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
 - B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.
3. Compensation.
 - A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
 - B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed four hundred thousand dollars (\$400,000) for the entire term of the Agreement (initial term plus any renewals).
4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.
5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.
6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.
7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.
8. No Boycott of Israel. To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
c/o Craig Croner, Fleet Management Superintendent
6210 W. Myrtle Avenue, #111
Glendale, AZ 85301

And

Cummins, Inc.
c/o Phil Cochren
651 N. 101st Avenue
Avondale, AZ 85323

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


"City"

City of Glendale, an Arizona
municipal corporation

By: _____
Kevin R. Phelps
City Manager

"Contractor"

Cummins, Inc.,
an Indiana corporation

By: 
Name: Phil Cochren
Title: Account Executive

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
CUMMINS, INC.**

**EXHIBIT A
(MARICOPA COUNTY CONTRACT NO. 200209-C
HEAVY DUTY FLEET, CONSTRUCTION AND AGRICULTURAL/INDUSTRIAL PARTS,
SERVICE & ACCESSORIES)**

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
CUMMINS, INC.**

**EXHIBIT B
Scope of Work**

PROJECT

To provide maintenance and repair services to heavy duty vehicles and equipment, along with parts and accessories, on an as-needed basis.

**SERIAL 200209-C HEAVY DUTY FLEET, CONSTRUCTION AND
AGRICULTURAL/INDUSTRIAL PARTS, SERVICE, & ACCESSORIES**

DATE OF LAST REVISION: December 17, 2021 CONTRACT END DATE: September 30, 2022

CONTRACT PERIOD THROUGH SEPTEMBER 30, 2024 2022

TO: All Departments
FROM: Office of Procurement Services
**SUBJECT: Contract for HEAVY DUTY FLEET, CONSTRUCTION AND
AGRICULTURAL/INDUSTRIAL PARTS, SERVICE, & ACCESSORIES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **September 16, 2020 (Eff. 10/01/20)**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.



Kevin Tyne, Chief Procurement Officer
Office of Procurement Services

EK/mm
Attach

Copy to: Office of Procurement Services
Erick Van Hofwegen, Equipment Services

(Please remove Serial 15021-C from your contract notebooks)

HEAVY DUTY FLEET, CONSTRUCTION AND AGRICULTURAL/INDUSTRIAL PARTS, SERVICE, & ACCESSORIES

1. INTENT

- 1.1. This Invitation for Bids is intended to establish a contract with multiple vendors to provide a full line of parts, components, accessories, and services at contractor locations and in the field, for light-duty and heavy-duty fleet vehicles (the minimum size for a heavy-duty vehicle is one-ton vehicle with dual rear wheels) and construction, agricultural, and industrial equipment. County anticipates awarded contractors may use parts and accessories from all applicable manufacturers. Last year, the County Equipment Services Department spent approximately \$461,078 for parts and \$821,434 for services for these vehicles and equipment. Contract award does not guarantee any volume of business.
- 1.2. Other governmental entities under agreement with Maricopa County (County) may have access to services provided hereunder (see also Sections 3.25 and 3.26 below).
- 1.3. The County reserves the right to add additional contractors, at the County's sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County's needs or to ensure adequate competition on any project or task order work.
- 1.4. Maricopa County reserves the right to award this contract to multiple vendors. The County reserves the right to award in whole or in part, by item or group of items, by section or geographic area, or make multiple awards, where such action serves the County's best interest.

2. SPECIFICATIONS

2.1. GENERAL

- 2.1.1. All charges to Maricopa County (County) shall be in accordance with the terms of the pricing agreement. Purchases are authorized by purchase order or County purchasing card only.

2.2. TECHNICAL REQUIREMENTS

2.2.1. Authorized Service Facilities and Vehicles

- 2.2.1.1. The contractor's facility shall be certified as a manufacturer's authorized service facility for the type of vehicle size and equipment offered on Attachment D – Pricing Sheet.
- 2.2.1.2. The contractor's service facility shall be open Monday through Friday from 8:00 a.m. to 5:00 p.m. MST, except on County recognized holidays.
- 2.2.1.3. Contractor's service facility shall be located in the Phoenix metropolitan area.
- 2.2.1.4. Contractor must indicate the gross vehicles weight (GVW) their service facility(s) is equipped to service on Attachment D – Pricing Sheet. For example, contractor may indicate a facility is only equipped to service trucks up to two tons.
- 2.2.1.5. Service truck(s) shall be fully equipped, at no cost to the County, with parts, diagnostic/repair tools, etc. necessary to complete the repairs. Include pricing for any equipment necessary to complete the job (i.e. rental equipment) on Attachment D – Pricing Sheet.

2.2.2. Manufacturers/Parts

2.2.2.1. The contractor shall be an active and authorized distributor of all manufacturers the contractor lists on Attachment D - Pricing Sheet at the time of bid submission. Contractor may add additional manufacturers over the course of the contract. County reserves the right to contact the manufacturers to verify authorization to ensure compliance with the terms and conditions of this solicitation.

2.2.2.2. Manufacturers used by the contractor may include, but are not limited to the following:

MCI TRANSPORT BUS	KUBOTA/BOBCAT	INGERSOLL-RAND-FLEET PARTS (NO TOOLS)
BLUE BIRD BUSES	JOHN DEERE GREEN	JOHN DEERE YELLOW
THOMAS BUSES	BEARCAT	CATERPILLAR
ROSCO ROLLERS	PB LOADER	BROCE BROOM/SWEEPERS
TENNANT SWEEPERS	JCB BACKHOE'S/LOADERS	RACK & PINION
CUMMINS DIESEL ENGINE	TITAN	BEAR/ELGIN BROOM
PULL TARP	ROLL-RITE	DYNA PAC ROLLERS
BINGHAM FORD	MASSEY FERGUSON	THERMO-KING
MAXON LIFTS	FREIGHTLINER	KENWORTH
SCORPION ATTENUATOR	3M MESSAGE BOARDS	SOLAR TECH MESSAGE BOARDS
WHEEL MOUNTED SPRAY TRAILER PARTS	VERMEER-WOOD CHIPPERS	PETERBUILT
MACK/VOLVO	INTERNATIONAL	TIGER CRANES
DUR-A-LIFTS	VERSA LIFTS	IMT CRANES
BG PRODUCTS	RAMSEY WINCHES	WACKER
PTO	MB - PAINT STRIPPERS	DRIVELINE
HUNTER TIRE MACHINES	SNAP ON SCANNERS	EZ LINER
BRAUN WHEELCHAIR LIFTS	BUYERS -TRAILER PARTS	MORBARK CHIPPERS
JAMAR	HOFFMAN - SNAP ON ALLIGNMENT	RV PARTS
RV-NEWMAR	RV-CHAMPION	RV-THOMAS
CHASSIS/SUSPENSIONS	VICKER PUMPS	WELDING SUPPLIES
AUTOMOTIVE FLEET FASTNERS	WEATHERGUARD TOOL BOXES	DELTA TOOL BOXES
MASTERRACK	SKIP-LINE	DYNA PAC
CARRIER A/C	FORD NEW HOLLAND	WATER TRUCK PARTS
BALWIN FILTERS	BRAKE COMPONENTS	TORO PARTS
WINDSHIELD WIPERS	PRESSURE WASHERS	SULLAIR COMPRESSORS
COATS -TIRE MACHINES	HYDRAULIC JACKS	

2.2.3. Replacement Parts

2.2.3.1. All replacement parts shall be from the original equipment manufacturer (OEM). The County will make exceptions when OEM parts are no longer available, or the County is approving aftermarket parts.

2.3. SERVICE REQUIREMENTS

2.3.1. Pricing for Services

2.3.1.1. The following definitions apply:

2.3.1.1.1. Labor rate shall mean the time it takes to complete the repair. The contractor shall utilize ½ hour increments when applicable.

2.3.1.1.2. Afterhours labor rate shall mean services rendered after normal business hours.

2.3.1.1.3. Field service call rate shall mean a onetime/one-way charge in route/travel to the County site, maximum one hour. This rate shall be the same for all field service calls.

2.3.1.1.4. Mileage shall mean mileage one way from the service facility to County vehicle/equipment.

2.3.1.1.5. Fuel Charge shall mean a onetime flat rate fuel charge.

2.3.1.2. The contractor shall provide the following labor rate information on Attachment D - Pricing Sheet:

2.3.1.2.1. services at contractor's facility

2.3.1.2.2. afterhours/overtime services

2.3.1.2.3. field service calls (if applicable)

2.3.1.2.4. field service calls afterhours/overtime

2.3.1.2.5. mileage (if applicable) or fuel charge (the first 50 miles are free; additional mileage shall be charged per mile at the applicable mileage rate)

2.3.1.3. Afterhours/overtime service must be approved prior to providing the service.

2.3.1.4. The County shall not be responsible for any afterhours/overtime rates/charges when incurred due to negligence on the part of the contractor/service technician, for example when a contractor/service technician is missing any parts, tools, equipment, material, and other related items required to complete the repair.

2.3.1.5. Invoices for services shall be submitted within 48 hours from date of service, by fax to 602-506-1182 or email (provided upon award).

2.3.1.6. The County reserves the right to dispute charges on labor hours and repairs performed if deemed excessive or unreasonable. If any portion of the repair performed is determined to be excessive charges, the contractor shall credit the original invoice referencing the work order and the vehicle number.

2.3.2. Work Order Assignments

2.3.2.1. Equipment Service Department fleet maintenance supervisors and customer service writers will coordinate and issue a work order to the contractor, referencing the vehicle/equipment number, as an authorization to perform service. Contractors shall not perform any service without a work order. The contractor shall contact the SW at 602-506-4678 on all delays, pick-ups, deliveries, questions, or additional repair approval.

2.3.2.2. The designated employee(s) will give the contractor a preliminary diagnosis of the vehicle(s) repair.

2.4. PARTS DELIVERY

Deliveries shall be made to all locations within two hours of placing orders. Exceptions are made when the site is more than two hours in distance (travel time) from contractor's facility.

2.4.1. The contractor shall indicate if they have the capability to deliver to all locations listed in Section 2.8 – EQUIPMENT SERVICE DEPARTMENT SERVICE CENTERS and provide "hot shot runs" or "just in time parts" (expedited delivery). Indicate the parts delivery schedules for these locations on Attachment D - Pricing Sheet. This is not part of the award criteria.

2.4.2. The County is not responsible for the contractor's freight cost on normal stock items.

2.4.3. All priority deliveries (i.e., overnight, air freight, UPS direct, etc.) shall be authorized by a County fleet maintenance supervisor. The invoice must list the name of the County fleet supervisor who authorized special delivery payment.

2.4.4. The contractor shall contact the designated Service Center to inform them about all delivery delays.

2.4.5. When part(s) are delivered on pallets, the contractor is required to pick up and dispose of the pallet(s). The pallet(s) must be labeled or stamped with the contractor's name to assist the County in notifying the contractor about when to pick up the pallets.

2.5. RETURN POLICY

The County's return policy overrides the contractors' return policies unless the manufacturer's return policies are more advantageous to the County. The County's return policies are as follows:

2.5.1. The contractor shall accept all returns, regardless of the quantity, providing a full refund at no cost or penalty to the County; no "minimum quantity" policies are permitted. This includes the return of all parts considered non-moving or seasonal parts pulled during a six-month inventory adjustment.

2.5.2. The County reserves the right to replace/return parts that no longer meet the County's needs because they do not fit a newer model of a vehicle/equipment without incurring costs or penalties from the contractor.

2.5.3. The County accepts responsibility for a restocking fee of no more than a 15 percent, if a special order or a non-stock part is ordered and then returned. If the

County has not yet received the part and cancels the order, no restocking fee is permitted.

2.5.4. The credit slip shall reflect the original purchase price for each returned part and reference the credit slip number or original invoice number.

2.5.5. The County's working conditions may cause the original packaging to be altered. When a part(s) is returned unused, the contractor shall accept the return for a full credit regardless of whether packaging has been altered.

2.6. AWARDED DISCOUNTS

It shall be the responsibility of the contractor to communicate with their parts department, accounts receivable, and other areas involved in compliance with the contract to ensure that awarded discounts are honored.

2.7. RESPONSE TIME

2.7.1. Contractor's response time to pick-up a vehicle/equipment under warranty shall be within the same business day, unless a prior agreement has been made between the County and contractor.

2.7.2. The County will be responsible for transporting vehicle(s) not covered under warranty to the contractor's service facility.

2.7.3. The contractor will be given an expected turn-around time by the County fleet maintenance supervisor or customer service writer. If the turn-around time cannot be met, the contractor must indicate such to the County at the time of job assignment. County reserves the right to negotiate a turnaround time or to seek services from another contractor.

2.8. EQUIPMENT SERVICE DEPARTMENT SERVICE CENTERS

Equipment Services Department operates five service centers. Operating hours indicated below are Monday through Friday, excluding County recognized holidays; hours of operation vary depending on the location.

2.8.1. Durango Main Service Center, 3325 W. Durango, Phoenix, 85009 (602-506-4678), 6:00 a.m. to 4:30 p.m. MST.

2.8.2. Mesa Service Center, 155 E. Coury, Mesa, 85210 (602-506-4794), 6:00 a.m. to 2:30 p.m. MST.

2.8.3. Dysart Service Center, 16821 N. Dysart Rd. Surprise, 85374 (623-583-1836), 7:00 a.m. to 3:30 p.m. MST.

2.8.4. Downtown Service Center, 120 S. 4th Ave, Phoenix, 85003 (602-506-2909), 7:30 a.m. to 4:00 p.m. MST.

2.8.5. Buckeye Service Center, 26449 W. HWY 85, Buckeye, 85326 (623-386-7461), 6:00 a.m. to 3:30 p.m. MST.

2.9. SAFETY STANDARDS

All work performed shall meet current Arizona State and Code Federal Regulations under Title 49 mandates, no exceptions.

2.10. STATUS REPORTS

2.10.1. The contractor shall submit a daily status report to the County heavy duty fleet supervisor with the work order number and vehicle/equipment number, date vehicle/equipment was received, details on the repair, and details on the completion date, via fax (602-506-1182) or email to the designated employee(s) (provided after award).

2.10.2. The report shall be submitted every day by 4:00 p.m. MST.

2.11. STOCK LIFT

2.11.1. The County reserves the right to receive credit for our current inventory before accepting new manufacturer brands or the contractor may be required to lift current inventory and replace with their brand.

2.11.2. The County shall be permitted to trade-in slow moving stock and seasonal parts to a contractor for credit without penalties such as a restocking fee, partial credit, etc. Trade-ins may occur with a contractor from whom the parts were not originally purchases.

2.11.3. The credit slip shall reflect the original purchase price for each trade-in part and reference the credit slip number or original invoice number.

2.12. ADDITIONAL CHARGES/FEEES

Maricopa County is not responsible for miscellaneous charges or fees (i.e., shop supplies, environmental fees, hazardous waste) other than those listed in the pricing section of this contract.

2.13. SITE VISITS

The County reserves the right to visit the contractor's facilities Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. MST during the award determination and after an award has been made to inspect such warehouse/distribution center(s) to ensure compliance with terms and conditions of this contract.

2.14. TECHNICAL AND DESCRIPTIVE SALES LITERATURE

The contractor shall provide copies of its sales literature and brochures and copies of any manufacturer's technical and/or descriptive literature (e.g., PDF versions of sales literature, brochures, and/or webpages) specific to the material(s) the contractor proposes to provide. Literature shall be sufficient in detail to allow for full and fair evaluation of the material(s) submitted, and must be included with the bid. Failure to include this information may result in the bid being rejected.

3. PURCHASING REQUIREMENTS

3.1. DELIVERY

3.1.1. Delivery is desired as soon as possible, and details shall be stipulated on the purchase order. Contractor shall notify the County representative listed on the order if the requested delivery date and/or the anticipated lead time cannot be met. Failure to communicate to County changes in the order status may result in default proceedings.

3.1.2. Supplies or equipment being delivered to the County shall be delivered during the hours outlined in section 2.8 - EQUIPMENT SERVICE DEPARTMENT SERVICE CENTERS, Monday through Friday, except on County recognized holidays.

3.1.3. Delivery shall be F.O.B. Destination Freight Prepaid.

3.2. EXPEDITED DELIVERY

3.2.1. If the department determines that expedited delivery or other alternate shipping is required, it shall notify the contractor. The contractor shall determine any additional costs associated with such delivery terms and communicate that cost to the department.

3.2.2. The department shall not advise the contractor to proceed with an expedited shipment until acceptable terms are agreed upon and a purchase order is issued. Upon agreeing to the additional costs, the department shall advise the contractor to proceed.

3.2.3. Upon receipt of material(s) and invoicing, the department shall ensure that any additional charges are in compliance with and do not exceed agreed to costs. The department shall retain all documents related to these costs within the agency purchase file.

3.3. SHIPPING DOCUMENTS

A packing list or other suitable shipping document shall accompany each shipment and shall include the following:

3.3.1. Contract serial number

3.3.2. Contractor's name and address

3.3.3. Department name and address

3.3.4. Department purchase order number

3.3.5. A description of product(s) shipped, including item number(s), quantity(ies), number of containers and package number(s), as applicable

3.4. SHIPPING TERMS

Bid price(s) and terms shall be F.O.B. Destination Freight Prepaid at the location(s) stipulated on the purchase order. All delivery locations are within Maricopa County.

3.5. OPERATING MANUALS

Upon delivery, contractor shall provide comprehensive operational manuals, service manuals and schematic diagrams, if required by the department.

3.6. INSTALLATION

The contractor shall be responsible to install and present for inspection all equipment in a complete and ready-for-use condition with all components functioning, cleaned and tested. The contractor's price shall include delivery and installation of all equipment in complete operating condition.

3.7. SAMPLES

The contractor may be requested to furnish samples of material(s) bid to allow for examination by the County. Any materials so requested shall be furnished within 10 working days from the date of request and furnished at no cost to the County and sent to the address designated in the requesting correspondence.

3.8. TESTING

Unless otherwise specified, materials purchased will be inspected by the department to ensure the materials meet the quality and quantity requirements of the specifications. When deemed necessary by the County, samples of the materials may be taken at random from stock received for submission to a commercial laboratory or other appropriate agency for analysis and tests to determine whether the materials conform in all respects to the specifications. In cases where commercial laboratory reports determine that the materials do not meet the specifications, the expense of such analysis shall be borne by the contractor.

3.9. ACCEPTANCE

Upon delivery and successful installation, the material(s) shall be deemed accepted and the warranty period shall begin. Successful installation shall be defined as a) the material(s)/equipment is installed (as necessary) and fully operational; and b) initial training, if any, is complete. All documentation shall be completed prior to final acceptance.

3.10. STOCK

The contractor shall be expected to stock sufficient quantities as may be necessary to meet the County's needs and deliver as stated in the IFB.

3.11. DISCONTINUED MATERIALS

3.11.1. In the event that a manufacturer discontinues materials, the County may allow the contractor to provide a substitute for the discontinued item or may cancel the contract. If the contractor requests permission to substitute a new material, the contractor shall provide the following to the County:

3.11.1.1. Documentation from the manufacturer that the material has been discontinued.

3.11.1.2. Documentation that names the replacement material.

3.11.1.3. Documentation that provides clear and convincing evidence that the replacement material meets or exceeds all specifications required by the original solicitation.

3.11.1.4. Documentation that provides clear and convincing evidence that the replacement material will be compatible with all the functions or uses of the discontinued material.

3.11.1.5. Documentation confirming that the price for the replacement is the same as or less than the discontinued material.

3.11.2. Material discontinuance applies only to those materials specifically listed on any resultant contract. This will not apply to catalog items not specifically listed on any resultant contract.

3.12. WARRANTY

3.12.1. All items furnished under this contract shall conform to the requirements of this contract and shall be free from defects in design, materials, and workmanship.

3.12.2. The warranty period for workmanship and materials shall be for a minimum initial period of 12 months and commence upon acceptance by County per Section 3.9.

SERIAL 200209-C

3.12.2.1. The contractor shall indicate on the price sheet the duration of the warranty and any applicable limitations or conditions which may apply.

3.12.2.2. The contractor agrees that it will, at its own expense, provide all labor and parts required to remove, repair, or replace, and reinstall any such defective workmanship and/or materials which becomes or is found to be defective during the term of this warranty. The contractor shall guarantee the equipment to be supplied complies with all applicable regulations.

3.13. MAINTENANCE

The contractor shall provide maintenance for the materials under this contract upon acceptance of materials by the department.

3.14. FACTORY AUTHORIZED SERVICE AVAILABILITY

The contractor shall have and maintain a factory authorized service facility capable of supplying and installing component parts, troubleshooting, repairing, and maintaining the material(s). Minimum service hours shall be from 8:00 a.m. through 5:00 p.m. MST, Monday through Friday, excluding County and Federal holidays.

3.15. BRAND NAME

In some cases, brand names have been listed in order to define the desired quality and are not intended to be restrictive or to limit competition. Materials substantially equivalent to those designated shall qualify for consideration.

3.16. ORDER CUTOFF INFORMATION

3.16.1. Contractors submitting bids shall advise the County of all known order cutoff dates/times for the equipment/product(s) specified in this solicitation at the time of bid submission. Notification of any subsequent cutoff date(s)/time(s) (learned after submission of bid) shall also be the contractor's responsibility. The contractor shall advise the County of subsequent cutoff date(s)/time(s) by notifying the procurement officer, in writing, of the new information.

3.16.2. If the item(s) become no longer available, contractor shall notify County of the last available ordering date for the item(s) and may provide County with alternative item(s) that the County may elect to purchase at its option. If the alternative item(s) do not meet the County's requirements, County may take action including termination of this contract for convenience per Section 4.16.

3.17. ORDER LEAD-TIME NOTIFICATION

3.17.1. Contractors submitting bids shall advise the County of lead-time(s) for the required items specified in this solicitation at the time of bid submission. Notification of any changes to lead time (learned after submission of bid) shall also be the contractor's responsibility. The contractor shall also notify all County representatives included on purchase orders of lead-time information.

3.18. TRADE-INS

Contractor may be requested to submit prices on trade-in(s). Whether materials will actually be traded is at the option of the County.

3.19. USAGE REPORT

The contractor shall furnish the County a usage report, upon request, delineating the acquisition activity governed by the contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit of measure.

3.20. BACKGROUND CHECK

Bidders/proposers may be required to pass multiple background checks (e.g. Sheriff's Office, County Attorney's Office, Courts, as well as Maricopa County general government) to determine if the respondent is acceptable to do business with the County. This applies to, but is not limited to, the company, subcontractors, and employees.

3.21. INVOICES AND PAYMENTS

3.21.1. The contractor shall submit one legible copy of their detailed invoice before payment(s) will be made. Incomplete invoices will not be processed. At a minimum, the invoice must provide the following information:

- Company name, address, and contact information
- County bill-to name and contact information
- Contract serial number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity
- Contract item number(s)
- Arrival and completion time
- Description of purchase (product or services)
- Pricing per unit of purchase
- Extended price
- Freight (if applicable)
- Total amount due

3.21.2. Labor, services, and maintenance must be billed as a separate line item.

3.21.3. Problems regarding billing or invoicing shall be directed to the department as listed on the purchase order.

3.21.4. Payment will only be made to the contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After contract award, the contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration website <https://www.maricopa.gov/5169/Vendor-Information>.

3.21.5. Discounts offered in the contract shall be calculated based on the date a properly completed invoice is received by the County.

3.21.6. EFT payments to the routing and account numbers designated by the contractor shall include the details on the specific invoices that the payment covers. The contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.22. APPLICABLE TAXES

3.22.1. It is the responsibility of the contractor to determine any and all applicable taxes and include those taxes in their proposal. The legal liability to remit the tax is on

the entity conducting business in Arizona. Tax is not a determining factor in contract award.

3.22.2. The County will look at the price or offer submitted and will not deduct, add, or alter pricing based on speculation or application of any taxes, nor will the County provide contractor any advice or guidance regarding taxes. If you have questions regarding your tax liability, seek advice from a tax professional prior to submitting your bid. You may also find information at <https://www.azdor.gov/Business.aspx>. Once your bid is submitted, the offer is valid for the time specified in this solicitation, regardless of mistake or omission of tax liability. If the County finds overpayment of a project due to tax consideration that was not due, the contractor shall be liable to the County for that amount, and by contracting with the County agrees to remit any overpayments back to the County for miscalculations on taxes included in a bid price.

3.22.3. Tax Indemnification: Contractor and all subcontractors shall pay all Federal, State, and local taxes applicable to their operation and any persons employed by the contractor. Contractor shall, and require all subcontractors to, hold Maricopa County harmless from any responsibility for taxes, damages, and interest, if applicable, contributions required under Federal and/or State and local laws and regulations, and any other costs including: transaction privilege taxes, unemployment compensation insurance, Social Security, and Workers' Compensation. Contractor may be required to establish, to the satisfaction of County, that any and all fees and taxes due to the City or the State of Arizona for any license or transaction privilege taxes, use taxes, or similar excise taxes are currently paid (except for matters under legal protest).

3.23. POST AWARD MEETING

The contractor may be required to attend a post-award meeting with the department to discuss the terms and conditions of this contract. This meeting will be coordinated by the procurement officer of the contract.

3.24. STRATEGIC ALLIANCE for VOLUME EXPENDITURES (SAVE)

The County is a member of the SAVE cooperative purchasing group. SAVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the SAVE Cooperative Purchasing Agreement, and with the concurrence of the successful respondent under this solicitation, a member of SAVE may access a contract resulting from a solicitation issued by the County. If you do not want to grant such access to a member of SAVE, state so in your bid. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this bid. The County assumes no responsibility for any purchases by using entities.

3.25. INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPAs)

County currently holds ICPAs with numerous governmental entities. These agreements allow those entities, with the approval of the contractor, to purchase their requirements under the terms and conditions of the County contract. It is the responsibility of the non-County government entity to perform its own due diligence on the acceptability of the contract under its applicable procurement rules, processes, and procedures. Certain governmental agencies may not require an ICPA and may utilize this contract if it meets their individual requirements. Other governmental agencies may enter into a separate Statement of Work with the contractor to meet their own requirements. The County is not a party to any uses of this contract by other governmental entities.

4. CONTRACTUAL TERMS & CONDITIONS

4.1. CONTRACT TERM

This Invitation for Bids is for awarding a firm, fixed-price purchasing contract to cover a term of one year.

4.2. OPTION TO RENEW

The County may, at its option and with the concurrence of the contractor, renew the term of this contract up to a maximum of four additional year(s), (or at the County's sole discretion, extend the contract on a month-to-month basis for a maximum of six months after expiration). The contractor shall be notified in writing by the Office of Procurement Services of the County's intention to renew the contract term at least 60 calendar days prior to the expiration of the original contract term.

4.3. CONTRACT COMPLETION

In preparation for contract completion, the contractor shall make all reasonable efforts for an orderly transition of its duties and responsibilities to another provider and/or to the County. This may include, but is not limited to, preparation of a transition plan and cooperation with the County or other providers in the transition. The transition includes the transfer of all records and other data in the possession, custody, or control of the contractor that are required to be provided to the County either by the terms of this agreement or as a matter of law. The provisions of this clause shall survive the expiration or termination of this agreement.

4.4. PRICE ADJUSTMENTS

4.4.1. Any requests for reasonable price adjustments must be submitted 60 calendar days prior to the contract expiration. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey. If County agrees to the adjusted price terms, County will issue written approval of the change and provide an updated version of the contract. The new change shall not be in effect until the date stipulated on the updated version of the contract.

4.4.2. In the event any price increase is requested as the result of any tariff that becomes effective during the performance of this contract, the County may adjust the price based on a request from the contractor that documents the additional price increase. If, during the performance of this contract, any tariff-related price increase is subsequently reduced or eliminated, the vendor shall notify the County of the decrease and shall apply it accordingly for remaining term of the contract. If the County finds over payment of a project due to tariff reduction that was not due, the contractor will be liable to the County for that amount, and by contracting with the County agrees to remit any overpayments back to the County for miscalculations on increases due to tariffs included in a bid price.

4.5. INDEMNIFICATION

4.5.1. To the fullest extent permitted by law, and to the extent that claims, damages, losses, or expenses are not covered and paid by insurance purchased by the contractor, the contractor shall defend, indemnify, and hold harmless the County (as Owner), its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including, but not limited to attorneys' fees, court costs, expert witness fees, and the costs and attorneys' fees for appellate proceedings) arising out of, or alleged to have resulted

from, the negligent acts, errors, omissions, or mistakes relating to the performance of this contract.

- 4.5.2. Contractor's duty to defend, indemnify, and hold harmless the County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment of, or destruction of tangible property, including loss of use resulting therefrom, caused by negligent acts, errors, omissions, or mistakes in the performance of this contract, but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.
- 4.5.3. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this section.
- 4.5.4. The scope of this indemnification does not extend to the sole negligence of County.

4.6. INSURANCE

- 4.6.1. Contractor, at contractor's own expense, shall purchase and maintain, at a minimum, the herein stipulated insurance from a company or companies duly licensed by the State of Arizona and possessing an AM Best, Inc. category rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 4.6.2. All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this contract.
- 4.6.3. In the event that the insurance required 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 years beginning at the time work under this contract is completed.
- 4.6.4. Contractor's insurance will be primary insurance as respects County, and any insurance or self-insurance maintained by County will not contribute to it.
- 4.6.5. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.
- 4.6.6. The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductibles and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 4.6.7. The insurance policies required by this contract, except Workers' Compensation and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials, and employees as additional insureds.

- 4.6.8. The policies required hereunder, except Workers' Compensation and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials, and employees for any claims arising out of contractor's work or service.
- 4.6.9. If available, the insurance policies required by this contract may be combined with Commercial Umbrella Insurance policies to meet the minimum limit requirements. If a Commercial Umbrella insurance policy is utilized to meet insurance requirements, the Certificate of Insurance shall indicate which lines the Commercial Umbrella Insurance covers.

4.6.9.1 Commercial General Liability

Commercial General Liability (CGL) insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for premises liability, bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provisions which would serve to limit third-party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

4.6.9.2 Automobile Liability

Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to any of the contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the contractor's work or services or use or maintenance of the premises under this contract.

If vehicles or mobile equipment are used in the performance of the obligations under this agreement, then contractor shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two times the occurrence limit.

4.6.9.3 Garagekeepers Liability

Garagekeepers Liability insurance which will insure and provide coverage for garage keepers legal liability, garage liability, and auto physical damage of the contractor, with limits of no less than \$2,000,000 for each occurrence,

4.6.9.4 Workers' Compensation

4.6.9.4.1 Workers' Compensation insurance to cover obligations imposed by Federal and State statutes having jurisdiction of contractor's employees engaged in the performance of the work or services under this contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

4.6.9.4.2 Contractor, its subcontractors, and sub-subcontractors waive all rights against this contract and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or Commercial Umbrella Liability insurance obtained by contractor, its subcontractors, and its sub-subcontractors pursuant to this contract.

4.6.10. Certificates of Insurance

4.6.10.1 Prior to contract award, contractor shall furnish the County with valid and complete certificates of insurance, or formal endorsements as required by the contract in the form provided by the County, issued by contractor's insurer(s), as evidence that policies providing the required coverage, conditions, and limits required by this contract are in full force and effect. Such certificates shall identify this contract number and title.

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

4.6.10.3 If a policy does expire during the life of the contract, a renewal certificate must be sent to County 15 calendar days prior to the expiration date.

4.6.11. Cancellation and Expiration Notice

Applicable to all insurance policies required within the insurance requirements of this contract, contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without 30 calendar days prior written notice to Maricopa County. Contractor must provide notice to Maricopa County, within two business days of receipt, if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to Maricopa County Office of Procurement Services and shall be mailed or hand delivered to 160 South 4th Avenue, Phoenix, AZ 85003, or emailed to the procurement officer noted in the solicitation.

4.7. FORCE MAJEURE

4.7.1. Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this contract, if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes will include acts of God/nature (including fire, flood, earthquake, storm, hurricane, or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, and interruption or failure of electricity or telecommunication service.

4.7.2. Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

4.7.3. The party asserting Force Majeure as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

4.8. ORDERING AUTHORITY

Any request for purchase shall be accompanied by a valid purchase order issued by a County department or directed by a Certified Agency Procurement Aid (CAPA) with a purchase card for payment.

4.9. AVAILABILITY OF FUNDS

4.9.1. The provisions of this contract relating to payment shall become effective when funds assigned for the purpose of compensating the contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this contract. County will keep the contractor fully informed as to the availability of funds.

4.9.2. If any action is taken by any State agency, Federal department, or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this contract. In the event of termination, County will be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this contract. County will give written notice of the effective date of any suspension, amendment, or termination under this section, at least 10 days in advance.

4.10. PROCUREMENT CARD ORDERING CAPABILITY

County may opt to use a procurement card (Visa or Master Card) to make payment for orders under this contract.

4.11. INTERNET ORDERING CAPABILITY

It is the intent of Maricopa County to use the Internet to communicate and to place orders under this contract.

4.12. NO MINIMUM OR MAXIMUM PURCHASE OBLIGATION

This contract does not guarantee any minimum or maximum purchases will be made. Orders will only be placed under this contract when the County identifies a need and proper authorization and documentation have been approved.

4.13. PURCHASE ORDERS

4.13.1. County reserves the right to cancel purchase orders within a reasonable period of time after issuance. Should a purchase order be canceled, the County agrees to reimburse the contractor for actual and documentable costs incurred by the contractor in response to the purchase order. The County will not reimburse the contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, or for shipment of product prior to issuance of purchase order.

4.13.2. Contractor agrees to accept verbal notification of cancellation of purchase orders from the County with written notification to follow. Contractor specifically acknowledges to be bound by this cancellation policy.

4.14. SUSPENSION OF WORK

The procurement officer may order the contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the procurement officer determines appropriate for the convenience of the County. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor. No request for adjustment under this clause shall be granted unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

4.15. STOP WORK ORDER

4.15.1. The procurement officer may, at any time, by written order to the contractor, require the contractor to stop all, or any part, of the work called for by this contract for a period of 90 calendar days after the order is delivered to the contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 calendar days after a stop work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the procurement officer shall either:

4.15.1.1. cancel the stop work order; or

4.15.1.2. terminate the work covered by the order as provided in the Termination for Default or the Termination for Convenience clause of this contract.

4.15.2. The procurement officer may make an equitable adjustment in the delivery schedule and/or contract price, and the contract shall be modified, in writing, accordingly, if the contractor demonstrates that the stop work order resulted in an increase in costs to the contractor.

4.16. TERMINATION FOR CONVENIENCE

Maricopa County may terminate the resultant contract for convenience by providing 60 calendar days advance notice to the contractor.

4.17. TERMINATION FOR DEFAULT

4.17.1. The County may, by written Notice of Default to the contractor, terminate this contract in whole or in part if the contractor fails to:

4.17.1.1. deliver the supplies or to perform the services within the time specified in this contract or any extension;

4.17.1.2. make progress, so as to endanger performance of this contract; or

4.17.1.3. perform any of the other provisions of this contract.

4.17.2. The County's right to terminate this contract under these subparagraphs may be exercised if the contractor does not cure such failure within 10 business days (or more if authorized in writing by the County) after receipt of a Notice to Cure from the procurement officer specifying the failure.

4.18. STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST

Notice is given that, pursuant to Arizona Revised Statute (A.R.S.) § 38-511, the County may cancel any contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or consultant to any other party of the contract with respect to the subject matter of the contract. Additionally, pursuant to A.R.S. § 38-511, the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County from any other party to the contract arising as the result of the contract.

4.19. OFFSET FOR DAMAGES

In addition to all other remedies at Law or Equity, the County may offset from any money due to the contractor any amounts contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

4.20. SUBCONTRACTING

4.20.1. The contractor may not assign to another contractor or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the bid serial number and identify the job or project.

4.20.2. The subcontractor's rate for the job shall not exceed that of the prime contractor's rate, as bid in the pricing section, unless the prime contractor is willing to absorb any higher rates. The subcontractor's invoice shall be invoiced directly to the prime contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the subcontractor's invoice must accompany the prime contractor's invoice.

4.21. AMENDMENTS

All amendments to this contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

4.22. ADDITIONS/DELETIONS OF COMMODITIES

The County reserves the right to add and/or delete materials to a contract. If additional materials are required from a contract, prices for such additions will be negotiated between the contractor and the County.

4.23. RIGHTS IN DATA

4.23.1. The County shall have the use of data and reports resulting from a contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a contract and to the performance thereunder.

4.23.2. Data, records, reports, and all other information generated for the County by a third party as the result of a contract are the property of the County and shall be provided in a format designated by the County or shall be and remain accessible to the County into perpetuity.

4.24. ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW

4.24.1. In accordance with Section MC1-373 374 of the Maricopa County Procurement Code, the contractor agrees to retain (physical or digital copies of) all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this contract for six years after final payment or until after the resolution of any audit questions, which could be more than six years, whichever is longest. The County, Federal or State auditors and any other persons duly authorized by the department shall have full access to and the right to examine, copy, and make use of, any and all said materials.

4.24.2. If the contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this contract are not sufficient to support and document that requested services were provided, the contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.25. AUDIT DISALLOWANCES

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County will notify the contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check, or a deduction from current invoices submitted by the contractor equal to the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the contractor by issuing a check payable to Maricopa County.

4.26. STRICT COMPLIANCE

Acceptance by County of a performance that is not in strict compliance with the terms of the contract shall not be deemed to be a waiver of strict compliance with respect to all other terms of the contract.

4.27. VALIDITY

The invalidity, in whole or in part, of any provision of this contract shall not void or affect the validity of any other provision of the contract.

4.28. SEVERABILITY

The removal, in whole or in part, of any provision of this contract shall not void or affect the validity of any other provision of this contract.

4.29. RELATIONSHIPS

4.29.1. In the performance of the services described herein, the contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, co-employee, partnership, principal and agent, or joint venture between the County and the contractor.

4.29.2. The County reserves the right of final approval on proposed staff. Also, upon request by the County, the contractor will be required to remove any employees working on County projects and substitute personnel based on the discretion of the County within two business days, unless previously approved by the County.

4.30. NON-DISCRIMINATION

Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09, including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive Order 99-4 and amends Executive Order 75-5 and is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, contractor shall not discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability, or national origin. (Arizona Executive Order 2009-09 can be downloaded from the Arizona Memory Project at <http://azmemory.azlibrary.gov/cdm/singleitem/collection/execorders/id/680/rec/1.>)

4.31. WRITTEN CERTIFICATION PURSUANT TO A.R.S. § 35-393.01

If vendor engages in for-profit activity and has 10 or more employees, and if this agreement has a value of \$100,000 or more, vendor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

4.32. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

4.32.1. The undersigned (authorized official signing on behalf of the contractor) certifies to the best of his or her knowledge and belief that the contractor, its current officers, and directors:

4.32.1.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from being awarded any contract or grant by any United States department or agency or any state, or local jurisdiction;

4.32.1.2. have not within a three-year period preceding this contract:

4.32.1.2.1. been convicted of fraud or any criminal offense in connection with obtaining, attempting to obtain, or as the result of performing a government entity (Federal, State or local) transaction or contract; or

4.32.1.2.2. been convicted of violation of any Federal or State antitrust statutes or conviction for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property regarding a government entity transaction or contract;

4.32.1.3. are not presently indicted or criminally charged by a government entity (Federal, State or local) with commission of any criminal offenses in connection with obtaining, attempting to obtain, or as the result of performing a government entity public (Federal, State or local) transaction or contract;

4.32.1.4. are not presently facing any civil charges from any governmental entity regarding obtaining, attempting to obtain, or from performing any governmental entity contract or other transaction; and

4.32.1.5. have not within a three-year period preceding this contract had any public transaction (Federal, State or local) terminated for cause or default.

- 4.32.2. If any of the above circumstances described in the paragraph are applicable to the entity submitting a bid for this requirement, include with your bid an explanation of the matter including any final resolution.
- 4.32.3. The contractor shall include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors or sub-subcontractors) and in all solicitations for lower tier covered transactions related to this contract. If this clause is applicable to a subcontractor or sub-subcontractor, the contractor shall include the information required by this clause with their bid.
- 4.33. VERIFICATION REGARDING COMPLIANCE WITH A.R.S. § 41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS
- 4.33.1. By entering into the contract, the contractor warrants compliance with the Immigration and Nationality Act (INA using E-Verify) and all other Federal immigration laws and regulations related to the immigration status of its employees and A.R.S. § 23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the procurement officer upon request. These warranties shall remain in effect through the term of the contract. The contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the contract and verify employee compliance using the E-Verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at www.uscis.gov.
- 4.33.2. The County retains the legal right to inspect documents of contractor and subcontractor employees performing work under this contract to verify compliance with paragraph 4.33.1 of this section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary to verify compliance are the responsibility of the contractor.
- 4.34. CONTRACTOR LICENSE REQUIREMENT
- 4.34.1. The contractor shall procure all permits, insurance, and licenses, and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any requirements, by any and all governmental or non-governmental entities as mandated to maintain compliance with and remain in good standing. The contractor shall keep fully informed of existing and future trade or industry requirements, and Federal, State, and local laws, ordinances, and regulations which in any manner affect the fulfillment of a contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the department of any and all changes concerning permits, insurance, or licenses.
- 4.34.2. Contractor furnishing finished products, materials, or articles of merchandise that will require installation or attachment as part of the contract shall possess any licenses required. Contractor is not relieved of its obligation to obtain and possess the required licenses by subcontracting of the labor portion of the contract. Contractors are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, to ascertain licensing requirements for a particular contract. Contractor shall identify which license(s), if any, the Registrar of Contractors requires for performance of the contract.

4.35. INFLUENCE

4.35.1. As prescribed in MC1-1203 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for disbarment or suspension under MC1-902.

4.35.2. An attempt to influence includes, but is not limited to:

4.35.2.1. A person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type of valuable contribution or subsidy that is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

4.35.3. If a person attempts to influence any employee or agent of Maricopa County, the chief procurement officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

4.35.4. ABSOLUTELY NO CONTACT BETWEEN THE RESPONDENT AND ANY COUNTY PERSONNEL, OTHER THAN THE OFFICE OF PROCUREMENT SERVICES, IS ALLOWED DURING THE SOLICITATION PROCESS UNLESS THE COMMUNICATION IS IN REGARD TO PRE-EXISTING BUSINESS WITH THE COUNTY. ANY COMMUNICATIONS REGARDING THE SOLICITATION, ITS PARTICIPANTS, OR ANY DOCUMENTATION PRIOR TO THE CONTRACT AWARD MAY BE GROUNDS FOR DISMISSAL OF THE RESPONDENT FROM THE EVALUATION PROCESS.

4.36. CONFIDENTIALITY

In the course of the solicitation process, the County may disclose information that is proprietary or confidential. By submitting a bid to the solicitation, the offeror agrees that, except as necessary to prepare a response to this solicitation, neither it nor its agents or employees will communicate, divulge, or disseminate to any third-party persons or entities, any information that is disclosed to it by the County during the course of these discussions without the express written authorization of the County. If the offeror does disclose County proprietary or confidential information to a third party in preparing a response to this solicitation, it shall require the third party to acknowledge and comply with this provision.

4.37. CONFIDENTIAL INFORMATION

4.37.1. Any information obtained in the course of performing this contract may include information that is proprietary or confidential to the County. This provision establishes the contractor's obligation regarding such information.

4.37.2. The contractor shall establish and maintain procedures and controls that are adequate to assure that no information contained in its records and/or obtained from the County or from others in carrying out its functions (services) 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. The contractor's procedures and controls, at a minimum, must be the same procedures and controls it uses to protect its own proprietary or confidential information. If, at any time during the duration of the contract, the County determines that the procedures and controls in place are not adequate, the contractor shall institute any new and/or additional measures requested by the County within 15 business days of the written request to do so.

4.37.3. Any requests to the contractor for County proprietary or confidential information shall be referred to the County for review and approval, prior to any dissemination.

4.38. PUBLIC RECORDS

Under Arizona law, all offers submitted and opened are public records and must be retained by the County at the Maricopa County Office of Procurement Services. Offers shall be open to public inspection and copying after contract award and execution, except for such offers or sections thereof determined to contain proprietary or confidential information by the Office of Procurement Services. If an offeror believes that information in its offer or any resulting contract should not be released in response to a public record request, under Arizona law, the offeror shall indicate the specific information deemed confidential or proprietary and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The records manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

4.39. INTEGRATION

This contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, expressed, or implied.

4.40. UNIFORM ADMINISTRATIVE REQUIREMENTS

By entering into this contract, the contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, Part 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 *et seq.*

4.41. GOVERNING LAW

This contract shall be governed by the laws of the State of Arizona. Venue for any actions or lawsuits involving this contract will be in Maricopa County Superior Court, Phoenix, Arizona.

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
CUMMINS, INC.**

EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

Contractor will be paid within 30 days of submission of its invoices to City at the rates attached hereto.

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$400,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

To provide maintenance and repair services to heavy duty vehicles and equipment, along with parts and accessories, on an as-needed basis.

CUMMINS, INC. 390 INTERLOCKEN CRESCENT STE. 200 BROOMFIELD, CO 80021

COMPANY NAME:	Cummins, Inc.		
DOING BUSINESS AS (DBA) NAME:	Cummins Sales and Services		
MAILING ADDRESS:	390 Interlocken Crescent Ste. 200 Broomfield, CO 80021		
REMIT TO ADDRESS:	390 Interlocken Crescent Ste. 200 Broomfield, CO 80021		
TELEPHONE NUMBER:	623-474-2600		
FACSIMILE NUMBER:	623-474-2730		
WEB SITE:	www.cumminsrockymountain.com		
REPRESENTATIVE NAME:	Theresa Gardner		
REPRESENTATIVE TELEPHONE NUMBER:	623-474-2600		
REPRESENTATIVE E-MAIL:	theresa.gardner@cummins.com rockymountainar@cummins.com		
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	REBATE
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/> NET 30 DAYS			

1.0 PRICING:

HEAVY DUTY FLEET, CONSTRUCTION AND AGRICULTURAL/INDUSTRIAL PARTS, SERVICE, & ACCESSORIES

DISCOUNT PRICING: If your organization is willing to offer a discount off of your full line of inventory, indicate to discount percentage below by manufacturer name (+ or - (plus or minus), cost + or - (plus or minus) for each product line offered. To verify pricing and discounts, provide a flash drive, web link, CD, or bar code. Do not use the term "CURRENT PRICING" for the information required below. Spaces are provided to include other manufacturers or product lines not listed.

MANUFACTURERS OFFERED	PRICE FROM LIST # PLUS OR MINUS	DATE OF PRICING	PRICE FROM COST PLUS OR MINUS	DATE OF PRICING	DISCOUNT (% OFF)	WEB LINK
Cummins OEM Engine Parts	Minus	7/2020			20%	see attachment
Fleet Guard Filters and Coolant	Minus	7/2020			20%	
Onan Power Generators and Parts	Minus	7/2020			20%	
Valvoline Oil	Minus	7/2020			30%	
Valvoline Grease	Minus	7/2020			30%	

Labor rates may vary by vehicle and equipment

\$110.00 per hour Eff. 10/01/21

Labor rate at Contractor's facility(ies)	\$ 102 per hour	\$ _____
Labor rate for field service	\$ 112 per hour	\$ _____
Labor rate for field service call (if applicable)	\$ N/A	\$ _____
Labor rate afterhours/overtime	\$ 120 per hour	\$ _____

Additional labor rates for other vehicles and equipment applications

N/A \$ 0

CUMMINS, INC

_____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____

Mileage or fuel charge (see 2.3.1.2.5.) \$ \$2.50 per mile OR \$ N/A flat rate

Business hours 8 a.m. to 6 p.m. Mon. thru Fri.

Delivery schedule to Service Center provide morning or afternoon deliveries (reference section 2.8 for business hours):

Durango Main Service Center
Mesa Service Center
Dysart Service Center
Downtown Service Center
Buckeye Service Center

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
Afternoon	Afternoon	Afternoon	Afternoon	Afternoon

(Applies to all locations)

Return policy if more advantageous than the County's (reference section 2.5)

N/A

Restocking charge, if applicable (reference section 2.5.3.)

10% Restocking Fee on special orders/non-stock

Additional services offered:

N/A

Warranties may vary by parts manufacturers

yes

ATTACHMENT D PRICING SHEET

Warranty on labor minimum 12 months (reference section 3.12)

Mini/Max 12 months

Additional participating locations:

N/A

NIGP CODE:

06066

Terms:

NET 30 DAYS

Vendor Number:

VS0000001881

Certificates of Insurance

Required

Contract Period:

To cover the period ending **September 30, 2021 2022.**