

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
SYNERGY PETROLEUM LLC**

THIS COOPERATIVE PURCHASING AGREEMENT (this "Agreement") is entered into as of February 6, 2018, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Synergy Petroleum LLC, a Arizona limited liability company (the "Contractor").

RECITALS

A. After a competitive procurement process, the State of Arizona. ("State") entered into Contract No. ADSPO17-00007390 for Bulk Fuel and Bulk Propane with Contractor, effective December 1, 2017, (the "State Contract"). A copy of the State Contract is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement.

B. The Town is permitted, pursuant to Section 3-3-27 of the Town Code, to make purchases under the State Contract, at its discretion and with the agreement of the awarded Contractor, and the State Contract permits its cooperative use by other public entities, including the Town.

C. The Town and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the State Contract and this Agreement, (ii) establishing the terms and conditions by which the Contractor may provide the Town with Bulk Fuel as more particularly set forth in Section 2 below (the "Services") and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect for a period of one (1) year, until February 6, 2019 (the "Initial Term"), unless terminated as otherwise provided in this Agreement or the State Contract. After the expiration of the Initial Term, this Agreement may be renewed for up to four (4) additional one-year terms (a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for the renewal in the subsequent year; (ii) the term of the State Contract has not expired or has been extended; (iii) at least 30 days prior to the ten-current term of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iv) the Town approves the additional one-year term in writing (including any price adjustments approved as part of the State Contract), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term; provided, however, that the Town may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term are collectively referred to herein as the "Term." Upon renewal, the terms of this Agreement shall remain in full force and effect.

2. Scope of Work. Contractor shall provide to Town the Materials and Services under the terms and conditions of the State Contract and as more particularly set forth in the Proposal attached hereto as Exhibit B, and incorporated by this reference.

2.1 Inspection: Acceptance. All Services are subject to final inspection and acceptance by the Town. Upon discovery of non-conforming Services, the Town may elect to do any or all of the following by written notice to the Contractor: (i) waive the non-conformance; (ii) stop the work immediately; or (iii) bring Service into compliance and withhold the cost of same from any payments due to the Contractor.

3. Compensation. The Town shall pay Contractor an aggregate amount not to exceed \$45,000.00 per year, and a maximum amount of \$225,000.00 (including all renewals), for the Services.

4. Payments. The Town shall pay the Contractor monthly, based upon acceptance and delivery of Materials and/or Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall (i) contain a reference to this Agreement and the State Contract and (ii) document and itemize all work completed to date. Contractor's invoices for each task shall not exceed the amount set forth in the Proposal and State Contract. The invoice statement shall include a record of materials delivered, time expended and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the State Contract will be subject to rejection and may be returned.

5. Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under Section 6 below, Contractor's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (i) evaluation and verification of any invoices, payments or claims based on Contractor's and its

subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (ii) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 6 below. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this Section. The Town shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

6. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41- 4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

7. Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

8. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

9. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and a suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

10. Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Contractor hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

11. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any Town-approved work orders, the State Contract and invoices, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Agreement or the State Contract (collectively, the “Unauthorized Conditions”), other than the Town’s project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any work order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the State Contract shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

12. Rights and Privileges. To the extent provided under the State Contract, the Town shall be afforded all of the rights and privileges afforded to State and shall be “State” (as defined in the State Contract) for the purposes of the portions of the State Contract that are incorporated herein by reference.

13. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 12 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to State to the extent provided under the State Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Contractor’s obligation to provide the indemnification and insurance. In any event, the Contractor shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an “Indemnified Party”), for, from, and against third party losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, court costs, and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (“Claims”), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

14. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Grady E. Miller, Town Manager

With copy to: Dickinson Wright PLLC
 1850 North Central Avenue Suite 1400
 Phoenix, Arizona, 85004
 Attn: Fredda Bisman, Interim Town

Attorney

If to Contractor: Synergy Petroleum LLC
622 South 56th Avenue
Phoenix, Arizona, 85043
Attn: Mark Panzica

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

[SIGNATURES ON FOLLOWING PAGES]

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

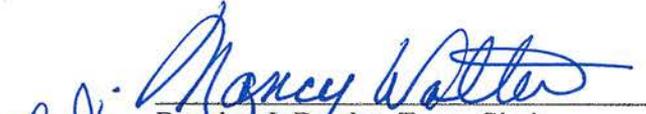
"Town"

TOWN OF FOUNTAIN HILLS,
an Arizona Municipal Corporation



Grady E. Miller, Town Manager

ATTEST:



Acting ~~Beverly J. Bender~~, Town Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On February, 2018, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.





Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

SYNERGY PETROLEUM LLC

By: Mark Panzica

Name: Mark Panzica

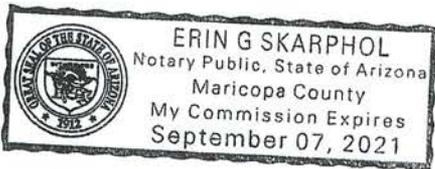
Its: General Sales Manager



(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On January 19, 2018, before me personally appeared Mark Panzica, the General Sales Mng. of Synergy Petroleum LLC, an Arizona limited liability corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of Stericycle Environmental Solutions, Inc.



Erin G. Skarphol
Notary Public

(Affix notary seal here)

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
SYNERGY PETROLEUM LLC

[STATE CONTRACT]

See following pages.



Request for Proposals

Solicitation No.
ADSP017-00007390

Description:
Bulk Fuel and Bulk Fuel Propane

Arizona Department of Administration
State Procurement Office
100 N 15th Ave., Suite 201
Phoenix, AZ 85007

**Attachment 1
Offer and Acceptance Form**

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide Error! Reference source not found. to in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	1.	07/11/17	MLP						
		date						Initial	
Revised Offers:	2.	x		3.	x		4.	x	
		date #1	Initial		date #1	Initial		date #1	Initial
	5.	x		6.	x		7.	x	
		date #4	Initial		date #5	Initial		date #6	Initial
Best and Final Offer:	8.	x							
		date	Initial						

Senenergy Petroleum LLC

Offeror company name

622 S 56th Ave

Address

Phoenix, AZ 85043

City | State | ZIP

46-265821B

Federal tax identifier (EIN or SSN)

Signature of person authorized to sign Offer

Initials

Mark Panzica, General Sales Manager

Printed name and title

Mark Panzica, General Sales Manager

Contact name and title

mpanzica@gosenergy.com

480-703-0410

Contact Email Address

Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

- will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465;
- has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
- complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
- is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the Initial Offer, Revised Offer, or Best and Final Offer identified by number # at the top of this form, and which was dated date (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: ADSP017-00007390

The effective date of the Contract is: 12/1/17

Contract awarded 11/30/17

Procurement Officer signature

name Mackenzie Hix

Procurement Officer printed name

Offer Forms (Attachments)

Index
Date: 01/24/2017

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Douglas A. Ducey
Governor



Craig Brown
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

STATE PROCUREMENT OFFICE

100 NORTH FIFTEENTH AVENUE • SUITE 201
PHOENIX, ARIZONA 85007

(602) 542-5511 (main) (602) 542-5508 (fax)
<http://spo.az.gov>

Sent via e-mail to: mpanzica@gosenergy.com

November 30, 2017

Re: Award of Contract No. ADSPO17-00007390 for Bulk Fuel and Bulk Propane.

Dear Mr. Panzica,

Thank you for submitting a response to Invitation to Bid No. ADSPO17-00007390. I am pleased to inform you that your company's offer has been selected for award for the following counties:

- Cochise County
- Gila County
- Graham County
- Greenlee County
- Maricopa County
- Pima County
- Pinal County
- Santa Cruz County
- Yuma County

The initial contract term shall begin on December 1, 2017.

All offers received were evaluated in accordance with the evaluation criteria set forth in the solicitation document. The procurement file for this solicitation, including evaluation documents and resultant contracts, will be available for public viewing within three (3) days.

In accordance with Special Terms and Conditions of the contract and prior to beginning work under the contract, your company is required to submit a Certificate of Insurance to the State Procurement Office. The certificate of insurance shall indicate that your company is in compliance with insurance requirements contained in the contract. Please submit your certificate of insurance to me as soon as possible.

You are cautioned not to begin any work under the contract until the Procurement Officer assigned to your contract has issued a written Master Blanket Purchase Order.

If you have any questions regarding your company's contract, please contact me at Mackenzie.Hix@azdoa.gov or 602.542.9126. Thank you for your response and for your continued interest in doing business with the State of Arizona.

Sincerely,

A handwritten signature in black ink, appearing to read "Mackenzie Hix", written over a light blue horizontal line.

Mackenzie Hix, Procurement Manager Senior, Statewide

Douglas A. Ducey
Governor



Craig C. Brown
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

STATE PROCUREMENT OFFICE

100 NORTH FIFTEENTH AVENUE • SUITE 201
PHOENIX, ARIZONA 85007

(602) 542-5511 (main)
<http://spo.az.gov>

TO: Procurement File

FROM: Mackenzie Hix, State Procurement Specialist

DATE: November 30, 2017

SUBJECT: Executive Summary of RFP ADSPO17-00007390, Bulk Fuel and Bulk Propane

This Request for Proposal (RFP) commenced under the Revised Arizona Procurement Code. Revised Arizona Statute § 41-2534, Competitive Sealed Proposal followed, including R2-7-C301 (Solicitation), R2-7-C302 (Pre-Offer Conference), R2-7-C306 (Receipt, Opening, and Recording of Offers), R2-7-C312 (Responsibility Determinations), R2-7-C313 Clarification of Offers, R2-7-C316 (Evaluation), R2-7-C315 (Offer Revisions and Best and Final Offers), R2-7-C316 (Evaluation of Offers) and R2-7-C317 (Contract Award).

TIMELINE

Solicitation ADSPO17-00007390 was conducted pursuant to A.R.S. § 41-2534 and implementing rules. The State Procurement Office issued the solicitation on June 9, 2017, sending letters of intent to two-hundred and seventy nine (279) Vendors through ProcureAZ. The RFP was approved to advertise on June 13, 2017. twelve (12) proposals were received electronically via ProcureAZ on or before 3:00 P.M MST July 11, 2017 from the following Offerors:

SC Fuels
BradCo
Carter Oil Company
Pro Petroleum
Western Refining Wholesale Inc
Griffin's Propane Inc
Truman Arnold Companies
Petroleum Traders Corporation
Supreme Oil Company
Mansfield Oil Company
Amerigas Propane LP
Senergy Petroleum LLC

EVALUATION PROCESS

1. The evaluation team consisted of four (4) evaluators; Ruth Kish (recently retired), Teri Raymond, Maria Cerda, and Mackenzie Hix. The first evaluation meeting was held on July 19, 2017. At this meeting evaluators received access to electronic copies of each proposal submitted as well as Evaluator Instructions. Procurement Disclosure Statements had been signed prior to this meeting in accordance with Significant Procurement Role A.R.S. §41-741 and §41-2503. The signed disclosures were placed within the Procurement File.
2. A second evaluation meeting was held on August 16, 2017 consensus review was completed for all offers. This meeting resulted in the evaluation team agreeing that the following vendors were susceptible to move to the next state of the evaluation process, Negotiations:

BradCo
Carter Oil
Pro Petroleum
Griffin's Propane
Petroleum Traders Corporation
Amerigas Propane LP
Senergy Petroleum

3. On October 31, 2017, in accordance with A.A.C. R2-7-C314, Negotiations with Responsible Offerors and Revisions of Offers, Discussions/Negotiation Letters were issued to the above vendors. All responses were provided by the due date and time indicated in the letters unless an extension was requested and granted.
4. In accordance with A.A.C. R2-7-C315, on November 27, 2017, a written request was sent to the seven (7) Vendors with whom negotiations had been conducted and a Best and Final Proposal Revision opportunity was created in ProcureAZ. Best and Final Proposal Revisions were due on November 28, 2017 at 5:00 PM MST. There was a request for a second Best and Final Offer proposal that was due on November 30, 12:00 P.M MST. Six (6) proposal revisions were received in a timely fashion on or before the due date and time for both the first and second BAFO total. In regards to the one (1) that was not received, per A.A.C. R2-7-C315, their previous written offer will be accepted as their final offer.
5. On September 18, 2017 Confidentiality Determinations were made and placed in the Procurement File In accordance with A.A.C. R2-7-103©, Confidential Information.

SCORING TABULATION

The committee evaluated the proposals on a 1000-point scale per Category (Newspaper Legal & Classified Advertising & Web Based Recruitment Advertising Category). Cost scores were determined on a relative scale.

CONTRACT AWARD / DETERMINATION

In accordance with the Solicitations Uniform Instructions, Section 6 Award, it has been determined that it is most advantageous to the State to make multiple awards, based on the analysis of usage data and anticipated use of the awarded contracts. In addition, awards are made in accordance with A.A.C. R2-7-608.

Based on the information provided and consensus from the Evaluation Committee, recommendations for award of solicitation ADSP017-00007390, shall be in accordance with A.R.S. § 41-2534 and R2-7-C317. Category awards shall be made to the following:

BradCo Inc
Carter Oil Company
Pro Petroleum Inc
Griffin's Propane Inc
Petroleum Traders Corporaton
Amerigas Propane LP
Senergy Petroleum LLC

Mackenzie Hix
State Procurement Specialist



NOTICE OF REQUEST FOR PROPOSALS

Solicitation No.
ADSP017-00007390

Description:
Bulk Fuel and Bulk Fuel Propane

Arizona Department of
Administration
State Procurement Office
100 N 15th Ave., Suite 201
Phoenix, AZ 85007

What State Is Soliciting:

The Arizona Department of Administration, State Procurement Office division (the State), as authorized under A.R.S. § 41-2501 is seeking to establish one or more "statewide" contracts to satisfy the needs for all state agencies, boards, and commissions, as well as participating purchasing cooperative members (collectively, the Eligible Agencies) to provide Bulk Fuel and Bulk Fuel Propane, which in general terms includes [the purchase and delivery of Bulk Fuel and Bulk Fuel Propane(LPG) including unleaded gasoline, diesel, and Ethanol 85 (E-85) to be utilized by all state agencies, boards, and participating political subdivisions(a.k.a eligible agencies or using agencies)]. The Special Terms and Conditions provide a more detailed definition of Eligible Agencies, and a list of all state agencies and purchasing cooperative members is available on the State Procurement Office website at:

<https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative>.

How State Anticipates Contracting:

The State anticipates statewide contract incorporating multiple types of bulk fuel and bulk fuel propane. The contract shall commence on the date of the contract execution and continue for 12 months unless terminated, cancelled, or extended otherwise provided herein. Whether or not it actually enters into any contracts, how many contracts it enters into, and how work is awarded between those contracts are all at the State's discretion. Further, the State will use any awarded contracts on an as-needed basis; it makes no guarantee as to its actual spending under them.

What's in the Solicitation:

1	ProcureAZ file #1: ADSP0-2A 17.00006976-xx.RFP.1-(Bulk Fuel and Bulk Fuel Propane)		
	Part 1: Instructions and Attachments	Section 1-A: Solicitation Details	ADSP0-2A 17.00006976-xx.RFP.1A.1, 1A.2, 1A.3, etc. contain Exhibits to Section 1-A
		Section 1-B: Instructions to Offerors	
		Section 1-C: Attachments (Offeror Forms)	
2	ProcureAZ file #2: ADSP0-2A 17.00006976-xx.RFP.2-(Bulk Fuel and Bulk Fuel Propane)		
	Part 2: Technical and Commercial	Section 2-A: Scope of Work (Technical Document)	ADSP0-2A 17.00006976-xx.RFP.2A.1,2A.2, 2A.3, etc., contain Exhibits to Section 2-A
		Section 2-B: Commercial Document[Not used]	
3	ProcureAZ file #3: ADSP0-2A 17.00006976-xx.RFP.3-(Bulk Fuel and Bulk Fuel Propane)		
	Part 3: Contract Terms and Conditions	Section 3-A: Special Terms and Conditions	ADSP0-2A 17.00006976-xx.RFP.3A.1, 3A.2, 3A.3, etc., contain Exhibits to Section 3-A
		Section 3-B: Uniform Terms and Conditions	

How and When Proposals Are Due:

Proposals will only be accepted online in the "ProcureAZ" system at <https://procure.az.gov> until the "Bid Opening Date" indicated in ProcureAZ for the Solicitation No. shown at the top of this page. Proposals must be in the State Procurement Office's possession online no later than that deadline. LATE PROPOSALS WILL NOT BE CONSIDERED. No extension or grace period will be given for delays or incomplete proposals caused by internet connectivity problems, file uploading difficulties, or misunderstanding of the requirements or procedures for online submission in ProcureAZ.

OFFERORS SHOULD READ THE ENTIRE SOLICITATION CAREFULLY

Pre-Offer Conference

State will not conduct a optional Pre-Offer Conference for this Solicitation. Refer to paragraph 2.8 of the [Instructions to Offerors](#) for more information.

Evaluation Criteria

In accordance with A.A.C. R2-7-C316, each Offer will be evaluated on the following criteria, listed in their relative order of importance from most important to least:

- First: **OFFEROR'S COST PROPOSAL**, as provided in Offeror's response to [Attachment 4](#).
- Second: **OFFEROR'S EXPERIENCE AND CAPACITY**, as demonstrated in Offeror's response to [Attachment 2-A](#), taken together with Offeror's responses to [Attachment 2-B](#) and any other aspect of the Offer that Procurement Officer determines is appropriate.
- Third: **OFFEROR'S PROPOSED APPROACH**, as set out in Offeror's response to [Attachment 3-A](#) in Section Part 1-C, taken together with Offeror's responses to [Attachments 3-B](#), [3-C](#), and [5-B](#), and in Section 1-C, and any other aspect of the Offer that Procurement Officer determines is appropriate.

Offer Validity Period

You must hold the Offer open for 180 (One-Hundred and Eighty) **days** after the "Bid Opening Date" indicated in the ProcureAZ. Refer to paragraph 6.1 of the [Instructions to Offerors](#) for more information.



Request for Proposals
 Solicitation No.
 ADSPO17-00007390
 Description:
 Bulk Fuel and Bulk Propane

Arizona Department of Administration
State Procurement Office
 100 N 15th Ave., Suite 201
 Phoenix, AZ 85007

PART 2 of the SOLICITATION:
 Technical and Commercial

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4.0 Arizona Department of Transportation Requirements**Error! Bookmark not defined.**

 The following requirements shall apply to the Arizona Department of Transportation (ADOT) only
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Request for Proposals
Solicitation No.
ADSP017-00007390
Description:
Error! Reference source not found.

Arizona Department of Administration
State Procurement Office
100 N 15th Ave., Suite 201
Phoenix, AZ 85007

Section 2-A:
Scope of Work
(Technical Document)

Date: 04/04/2017

1.0 Background

The estimated dollar volume of fuel products purchased under the proposed contract is \$12 million annually, based on historical usage data and anticipated volumes. This is only an estimate and the State makes no guarantee as to actual dollars spent under any resultant contract. The State of Arizona currently utilizes an e-procurement system, which allows cooperative members to purchase contracted items electronically through contractor maintained websites. It is the intent of the State to utilize the current e-procurement system, ProcureAZ, for ordering bulk fuel and bulk fuel propane.

2.0 Overview

Scope Summary

2.1 Contractor(s) will provide the sale and delivery of Bulk Fuels and propane to all state agencies, accounts, boards, and participating political subdivisions in each county.

Projected Contract Awards

2.2 The State anticipates awarding the contract to multiple vendors based on their ability to provide and deliver Bulk Fuel and Bulk Fuel Propane to State Agencies in each county. The State will list all State counties that will participate, and the State agencies will provide the location requirements.

Projected Usage

2.3 There is no available estimated usage.

Funding Considerations

2.4 No particular funding considerations have been identified as of the Solicitation.

3.0 Bulk Fuel Delivery Method

The Required Method of Delivery

3.1 The method of delivery is either "Tank Wagon" "Truck", "Pump Truck" "Tanker Truck" or "Truck/Trailer." This has been determined by tank capacity, location of tanks and/or frequency of deliveries for the smaller tanks before larger tanks can accept a sizeable load.

3.1.1 The State will require the implementation of a "Key Fill" Program (for Department of Corrections only) to monitor the tank capacity and ensure both Bulk Fuels and Bulk Fuel Propane tanks are always filled with their designated fuels if the tank is measured below key.

(a) Contractor shall be prepared, upon delivery, for pumping into above ground tanks if designated by agency.

Bulk Fuel Delivery Ticket

3.1.2 A delivery ticket which delineates the Contractor's name, address, type of fuel, grade of fuel, and dipstick prior to unloading and following unloading shall be provided at the time of each delivery and left at each fuel site. A copy of the same delivery ticket shall be emailed or faxed



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to the individual listed on the using agencies' purchase order within two (2) business days of delivery. The State shall only authorize payment for the actual (net) quantity of fuel delivered to each site

- (a) Time and execution of deliveries for each county need to be completed before seventy-two (72) hours.

4.0 Arizona Department of Transportation Requirements

The following requirements shall apply to the Arizona Department of Transportation (ADOT) only

- 4.1 Northern locations designated by agencies require Winter Blended Diesel Fuel with a "pour point additive" which will take it to (-40 or -20 degrees) below zero from October 1st to April 1st. Splash blending is not acceptable at these sites from October 1st to April 1st.
- 4.2 Above-ground tanks requires the Contractor to provide pump with hose.
- 4.3 Contractor must contact ADOT Fuel Systems Management at 602-712-6526 when spillage occurs.

CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

- 4.4 The contract may be cancelled if Contractor or any subcontractors or others in the employ or under the supervision of the Contractor or subcontractors is found to be in possession of weapons.
- 4.5 Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property pursuant to ADOT Policy, PER "Weapons in the Workplace." Such property includes ADOT owned or leased office building, yards, parking lots, construction sites or state owned vehicles.
- 4.6 Further, if the Contractor or any subcontractors or others in the employ or under the supervision of the Contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S §13-1502, "Criminal trespass in the third degree; classification."

5.0 General Requirements

Fuel Specifications

Gasoline and Oxygenated Fuels

- 5.1 All Gasoline shall conform to American Society for Testing and Masterials (ASTM) Standard Specification #D4814-01a for the State of Arizona and any ASTM revision thereafter, subject to the rules, regulations and Clean Air Act waivers of the U.S Environmental Protection Agency (EPA), and Arizona State Statutes which require the use of reformulated oxygenated gasoline and specify maximum vapor pressures for certain areas.
- 5.2 All regular grade unleaded gasoline fuel shall have a minimum octane (RON plus MON/2) of 87
- 5.3 All oxygenated or blended fuels shall conform to the ASTM D4814 standard specifications for the State of Arizona and meet any EPA waivers for oxygenated or blended fuels.
- 5.4 All fuels shall be blended for climatic conditions and local requirements at each delivery site, i.e summer/winter blends.



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- 5.5 Gasoline fuel shall have a maximum shelf life of one (1) year.
- 5.6 All gasoline fuel shall be guaranteed against any damage to equipment resulting from the proper use of the product.

Diesel Fuel

- 5.7 All diesel fuel shall conform to ASTM D975-02 standard specifications for No. 2 diesel fuel for the State of Arizona and any ASTM revisions thereafter, and EPA's Ultra Low Sulfur Diesel (ULSD) fuel standards.
- 5.8 All fuels shall be blended for climatic conditions and local requirements at each delivery site, i.e. summer/winter blends.
- 5.9 Diesel fuel shall have a maximum shelf life of one (1) year.
- 5.10 All diesel fuel shall be guaranteed against any damage to equipment resulting from the proper use of the product.
- 5.11 Winter blended diesel fuel will contain a "pour point additive" which will take it to -40 degrees below zero for above ground tanks and -20 degrees for below zero for below ground tanks from October 1st to April 1st. Bidder shall identify type of additive offered.

Liquid Propane Gas (LPG)

- 5.12 All propane shall conform to ASTM D1835-97 standard specifications and be automotive grade, "LPG-HD5" and all State and Federal regulations.
- 5.13 Provision of Tank: If required, Contractor shall provide and install the appropriate sized tank (with dispenser if needed) for locations requesting propane. All requested tanks shall be new.
- 5.14 Tanks must comply with all federal, State, and Local safety standards and code requirements.
- 5.15 Pricing for the rental of a new tank and one dispenser (1-gallon meter), if required, shall be based on a one-time yearly fee.
- 5.16 Contractor shall be responsible for obtaining all permits required for installation of an above ground LPG fuel site.

Ethanol

- 5.17 Ethanol product(s) shall be provided in compliance with U.S Department of Energy, Energy Policy Act of 1992, and all State and Federal regulations and must conform to ASTM D 5798 standard specifications and any ASTM revisions thereafter.
- 5.18 The State will not accept Ethanol Blends in gasoline and diesel below 10% content.

Contractor's Personnel

- 5.19 Regardless of position, role, or duties, Contractor shall only assign personnel who are appropriately alert, fit, qualified, trained, and equipped for their assignments. Unless a particular Order specifies certain numbers of personnel, Contractor shall:
- a) provide adequate numbers of appropriately qualified and authorized personnel as necessary to carry out the Services successfully;
 - b) assign, at minimum, the key personnel identified in the Accepted Offer to the positions, roles, and/or duties indicated therein; and
 - c) not remove or reassign any of those key personnel without State's prior consent, which State may withhold at its discretion.



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6.0 Performance Requirements

Contractor Responsibilities

- 6.1 Contractor shall be required, upon delivery, to pump all fuels from containers into using agency's storage tanks. It is the responsibility of the Contractor to supply pumps, hoses, etc. to appropriately pump the fuels to the storage tanks.
- 6.2 Contractor shall send copies of all delivery tickets to the individual identified on the using agency's purchase order via email or fax within two (2) business days of delivery.
- 6.3 Contractor shall ensure delivery of correct quantities ordered. Any delivery in excess of actual quantities ordered shall be refused.
- 6.4 Contractor shall be responsible for any damage to equipment resulting from the delivery of fuel and from fuel product.
- 6.5 Contractor shall be responsible for clean-up of all spillage, which may occur during transit, loading or unloading operations. Definition of a spill is any amount of fuel that can puddle on the ground; also the spill bucket or spill box must be free of debris and fuel at completion of the delivery.
- 6.6 Contractor shall immediately report any spillage or damage to the using agency. Clean up of spillage and/or repairs to the damaged equipment shall be performed by contractor in accordance with EPA and State of Arizona guidelines. (See section 4 for ADOT requirements)
- 6.7 Fuel delivery trucks shall at all times comply with current State of Arizona and Federal regulations pertaining to fuel vapor control.

Safety Standards

- 6.8 All items and services supplied under this contract shall comply with the current applicable Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code, the National Fire Protection Association Standards, The Department of Environmental Quality, The Federal Drug-Free Workplace Act of 1998 41-USC§701 and Arizona Administrative Code R2-11-102 Alcoholic Beverages.

Vendor Registration

- 6.9 Prior to issuance of a Purchase Order and subsequent payment, the Contractor must be registered in the State of Arizona's ProcureAZ online system, <http://procureaz.gov/bsol/>.

Contract Administration

- 6.10 Following award the Contractor shall contact the Arizona Department of Transportation Procurement Group for guidance or direction in matters of contract interpretation or problems regarding the terms, conditions or scope of the contract. Only the Procurement Officer or his/her authorized designee is authorized to change or amend the specific terms, conditions or provisions of the agreement.

Contraband

- 6.11 Any person who takes into or out of, or attempts to take into or out of a correctional facility or the grounds belonging to or adjacent to a correctional facility, any item not specifically authorized by the correctional facility shall be prosecuted under the provisions of the Arizona Revised Statutes. All personnel, including employees and visitors, entering upon these confines are subject to routine searches of their person, vehicles, property or packages.
- 6.12 Definition A.R.S §13-2501: Contraband means any dangerous drug, narcotic drug, intoxicating liquor of any kind, deadly weapon, dangerous instrument, explosive or any other article whose use or



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possession would endanger the safety, security, or preservation of order in a correctional facility or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e. marijuana, non-prescription medication, etc.)

PROMOTING PRISON CONTRABAND A.R.S. §13-2505

A. A person, not otherwise authorized by law, commits promoting prison contraband:

1. By knowingly taking contraband into a correctional facility or the grounds of such a facility; or
2. By knowingly conveying contraband to any person confined in a correctional facility; or
3. By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

B. Promoting prison contraband is a class 5 felony.

Emergency

6.13 During a natural disaster, or homeland security event, there may be a need for the State to access the Contractor's business for products and/or services twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. The need could be for a pick up or a delivery. For this purpose, a primary and secondary emergency representative name and phone number are required during the term of any resultant contract. It is critical to the State this information remains current at all times. All products or services provided to meet an emergency request are to be supplied as per the contract prices, terms and conditions. The Contractor shall be compensated for an after hours emergency opening of the business, if any, at the rate identified within the Line Items Tab on ProcureAZ.

7.0 Reporting Requirements

Usage Reports

- 7.1 The contractor shall furnish the State a usage report delineating the acquisition activity governed by resultant contract. The format of the report shall be approved by the State and shall disclose the quantity and the dollar value of each contract item by individual purchasing unit.
- 7.2 The usage report shall be due at the end of each calendar quarter as follows:
- 7.2.1 January Through March(Q1)
 - 7.2.2 April through June (Q2)
 - 7.2.3 July through September(Q3)
 - 7.2.4 October through December(Q4)

Billing and Invoices

- 7.3 All billing notices or invoices shall be sent to the eligible using agency whose address appears on the purchase order as the Bill-To address and should contain, at a minimum, the following information:
- 7.3.1 Name and address of the Contractor;
 - 7.3.2 Both the contract number and purchase order number;



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- 7.3.3 The Contractors federal tax identification number;
- 7.3.4 The Contractor's remittance address;
- 7.3.5 A description of the goods and services provided;
- 7.3.6 Quantity and delivery/service timeframe;
- 7.3.7 Itemized (if applicable) and total invoice pricing. Pricing shall be the contract price inclusive of any all-applicable discounts
- 7.4 All invoices must clearly outline: type of fuel, rack price, contracted price, (plus or minus rack) applicable taxes, and description of any extra fees (environmental fee, etc.)
- 7.5 Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the Contractor. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the using agency or the State for late or finance charges.
- 7.6 The State will make every effort to process payment for the purchase of product within thirty (30) calendar days after the State has conducted the necessary reviews, and inspections as described herein. **DELIVERY OF THE PRODUCT TO THE STATE DOES NOT CONSTITUTE ACCEPTANCE, THEREFORE, ONLY THE STATE ACCEPTANCE DATE WILL BE A VALID DATE FOR STARTING THE THIRTY (30) CALENDAR DAY PAYMENT PERIOD.**
- 7.7 Payment due dates, including discount periods, will be computed from the date of acceptance or date of correct invoice (whichever is later) to the date the State's warrant is mailed.

End of Section 2-A



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Section 2-B:
Compensation Document

Date: 04/04/2017

1.0 Compensation

Compensation Method.

- 1.1 Contractor will be compensated for the satisfactorily carrying out its obligations under the Contract by the method indicated by the "●" mark below:

Firm-Fixed-Price (refer to paragraph 1.2 below)

- 1.2 **FIXED-PRICE.** The firm-fixed price (interchangeably referred to as lump sum or stipulated sum) is the amount or amounts shown or scheduled as such in the Pricing Document (Exhibit 1 to this Commercial Document), each of which (a) will be Contractor's complete and total compensation for carrying out the relevant portion of the Work that it covers and (b) will not be subject to any adjustment on the basis of Contractor's cost experience in performing under the Contract.

1.2.1 Except as expressly stated otherwise in the Solicitation, Contractor is, on the basis in subparagraph 1.2.2, deemed to have allowed in each firm-fixed price correct and sufficient amounts to cover all its obligations under or arising from the Contract, at law, or otherwise, and to have allowed the necessary resources to enable it to carry out the relevant portion of the Work that it covers within any time for performance specified in the Scope of Work.

1.2.2 Contractor acknowledges that it has had the opportunity to visit those physical locations where the priced work is to be carried out and to understand and account for local conditions that might affect the Work, and has reviewed, verified, and interpreted for itself the necessary documents and information relevant to access, communications, climactic conditions, likelihood or risk of damage to adjacent property and occupants, possibility of interference by Persons other than State, and any necessary interfaces with others.

1.2.3 Pricing will be two-facets(delivery charges and OPIS weekly rack rate)

- (a) Define delivery charges(if more than one is needed)
- (b) Define OPIS rack rate(every Monday)
- (c) Product, quantity, location

2.0 Pricing

- 2.1 **CONTRACTOR'S BEST PRICING.** Supplier warrants that, for the term of the Contract, the prices and discounts set out in the Pricing Document, including any subsequent agreed amendment to it (the "Contract Pricing"), will be equal to or better than the lowest prices and largest discounts, both separately and in combination, at which it sells equivalent items of equipment and materials. That price-plus-discount equivalence ("Contractor's Best Pricing") is intended to be irrespective of whether or not those other sales have special purchase terms, conditions, rebates or allowances. If Contractor's Best Pricing for equivalent items of equipment and materials is better than the Contract Pricing, then Contractor agrees to adjust the Contract Pricing to match the Contractor's Best Pricing for all sales related to the Contractor made after the date when the Contractor's Best Pricing was first better than the Contract Pricing. For clarification of intent, that date is intended to be the date when the difference



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- first occurred, which might have been before the difference was first identified. If it was before, then Supplier agrees to charge at less than the Contract Pricing until the extended difference that would
- 2.2 ANNUAL ADJUSTMENT. No earlier than 30 (thirty) days before and no later than each anniversary of the effective date during the term of the Contract, either or both Contractor and State may request an adjustment to the contracted labor rates and reimbursable costs rates. Each shall respond within 21 (twenty-one) days of the request. Any rates so adjusted will be: (a) valid until the next anniversary; (b) only be applicable to portions of the Work not yet carried out as of that date (i.e., they do not apply retroactively); and (c) not reflected in Contractor's invoices until State provides its formal acceptance by issuing a Contract Amendment. A price reduction adjustment may be offered at any time during the term of the contract and shall become effective upon notice.
 - 2.3 PRICE ADJUSTMENT. The State will review **fully documented** requests for price increase after any contract has been in effect for twelve (12) months. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment will only be made at the time of the anniversary of the contract (see 2.2, pricing). The State will determine whether the requested price increase or an alternate option, is in the best interest of the State.
 - 2.4 The contracted pricing shall include all costs required to deliver and unload fuel into requesting agency's storage tank.
 - 2.5 The choice of rack (Phoenix, Tucson, etc.) to be used is the Monday Oil Price Information Service (OPIS) price of each weekly rack and shall remain consistent for the life of the contract.
 - 2.6 Each county price in the State will conform to the Monday Oil Price Information Service (OPIS) price for the weekly rack rate.
 - 2.7 Total cost will be determined by total items, NOT by product totals.
 - 2.8 The price for propane shall be the margin price (in cents, to a REQUIRED four decimal places) for each line item, to be added to, or subtracted from, the Principal Average Mont Belvieu price, as published weekly by Butane-Propane News (BPN) in the "Weekly Propane Newsletter" or as published by the Oil Price Information Service (OPIS), in order to determine the actual purchase price.
 - 2.9 The price published by BPN each Monday shall be in effect for purchases through Saturday of that week. If BPN does not publish a price for Mont Belvieu in the current week, the most recent published price shall prevail.
 - 2.10 Pricing for the rental of a new tank and one dispenser (1-gallon meter), if required, shall be based on a one-time yearly fee. The use of this item is optional. Requesting entity may purchase this option at their discretion.
 - 2.11 SHIPPING. Further to paragraph 4.2 of the Uniform Terms and Conditions, [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 State will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection].
 - 2.12 TAXES. Further to paragraph 4.3 of the Uniform Terms and Conditions, [It is understood that the exemption from tax in the case of sales of articles to state agencies or political subdivisions thereof is limited to articles purchased for use in the exercise of essential government functions and it is agreed that where articles purchased tax-free under this exemption certificate are used for purposes other



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than in the exercise of essential functions, or are sold to employees or others, the State will report such facts to the Contractor].

- 2.13 UPCHARGES. Where the Pricing Document entitles Contractor to apply upcharges to a unit price or contracted labor rate, Contractor shall in every instance:
- d) include the full upcharge amount in the quote it gives to the Eligible Agency or Co-Op Buyer;
 - e) itemize upcharges and show them separately from each unit price or contracted labor rate in the quote it gives to the Eligible Agency or Co-Op Buyer; and
 - f) provide an estimated amount where the exact upcharge cannot be precisely defined at the time of the order and follow the Eligible Agency or Co-Op Buyer instructions as to how and when to apply the estimate and actual amount.

3.0 Invoicing

- 3.1 INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Agency or Co-Op Buyer at the address indicated on the Order document.
- 3.2 MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	●
Contractor name and contact information	●
Remit-to address	●
State contract number	●
Order number (typically ProcureAZ PO #)	●
Invoice number and date	●
Date the items shipped or services performed	●
Applicable payment terms	●
Contract line item number	●
Contract line item description	●
Quantity delivered or performed	●
Line item unit of measure	●
Item price	●
Extended pricing	●
Discount off list or catalog	●
Taxes (as a separate invoice line item)	●
Upcharge shipping/freight, etc. (as a separate invoice line item)	Materials only
Total invoice amount due	●

- 3.3 NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for: (a) any Materials or Services that have not been authorized on an acknowledged Order; (b) any expediting, overtime, premiums, or upcharges absent State's express prior approval; or (c) any Materials or Services that are the subject of a Contract Amendment or Change Order that has not been signed.



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- 3.4 **SUBMITTING INVOICES.** Contractor shall submit an invoice to the ordering Eligible Agency or Co-Op Buyer every 3-5 business days or as specified on the order, using the form provided or required by the ordering Eligible Agency or Co-Op Buyer. Every invoice must be signed by Contractor's authorized representative and accompanied by all supporting information and documentation required by the Contract and laws.
- 3.5 **DEFECTIVE INVOICES.** Without prejudice to its other rights under the Contract or further obligation to Contractor, the ordering Eligible Agency or Co-Op Buyer may, at its discretion, reject any materially defective invoice.
- 3.5.1 The ordering Eligible Agency or Co-Op Buyer shall notify Contractor within 5 (five) business days after receipt if it determines an invoice to be materially defective.
- 3.5.2 Invoices will be deemed automatically rejected upon delivery if they:
- (a) are sent to an incorrect address;
 - (b) do not reference the correct State contract number; or
 - (c) are payable to any Person other than the Contractor.
- 3.5.3 The ordering Eligible Agency or Co-Op Buyer will have no obligation to pay against a defective invoice until Contractor has re-submitted it free of defects.
- 3.6 **INVOICING FOR TASK ORDERS.** Invoices must include the following information as applicable to the task order being invoiced against:
- a) substantiation of hours worked by a detailed daily timesheet, itemized to the task level and broken down by service area (if the Contract covers more than one area) and Contract Amendment (if any apply);
 - b) authorizations and receipts for all allowable reimbursable items being invoiced; and
 - c) Contractor's certification that the invoice has been examined and to the best of Contractor's knowledge and belief the invoiced amounts are entitled, correct, and accurate as can be demonstrated by the contractually-required books and records.

4.0 Payments

- 4.1 **PAYMENT.** State shall pay undisputed amounts due to Contractor within the time period specified in Article 4 of the Uniform Terms and Conditions
- 4.2 **JOINT CHECKS OR DIRECT PAY.** State may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.
- 4.3 **RECOVERY OF OVER-PAYMENT.** If State determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.
- 4.4 **PAYMENTS TO SUBCONTRACTORS.** Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from State applicable to their services.
- 4.5 **PURCHASING CARD.** State may pay invoices for some or all Orders using a purchasing card. Any and all fees related to payment using a State Purchasing Card are the responsibility of Contractor.
- 4.6 **AUTOMATED CLEARING HOUSE.** State may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract, which form is available online at:



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<https://gao.az.gov/afis/vendor-information>

End of Section 2-B

End of Part 2



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Bulk Fuel and Bulk Fuel Propane

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FOR USE IN ANY INVITATION FOR BIDS, REQUEST FOR PROPOSALS, OR REQUEST FOR QUOTATIONS,
AS WELL AS REQUEST FOR QUALIFICATIONS UNDER A.R.S. § 41-2558

EXHIBIT 2 to the Special Terms and Conditions:
Supplemental Provisions for Privacy Protection

Date: 01/27/2017

1. DEFINITIONS

Capitalized terms have the meanings given to them in the Uniform Terms and Conditions, especially paragraph 7.5 [Data Protection and Confidentiality of Information].

2. USE AND DISCLOSURE OF PHI/ePHI

Business Associate shall use and/or disclose PHI/ePHI only to the extent necessary to satisfy Business Associate's obligations under the Contract.

3. UNAUTHORIZED USE OR DISCLOSURE OF PHI/ePHI

Business Associate shall not use or disclose any PHI/ePHI received from or on behalf of State except as permitted or required by the Contract, law, or in writing by the State.

4. BUSINESS ASSOCIATE'S OPERATIONS

Business Associate may use PHI/ePHI it creates or receives for or from State only to the extent necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities. Business Associate may disclose such PHI/ePHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only if:

- (a) The disclosure is required by law; or
- (b) Business Associate obtains reasonable assurances from any person or organization to whom Business Associate discloses such PHI/ePHI that it will:
 - i. hold such PHI/ePHI in confidence and only use or further disclose it for the purpose for which Business Associate disclosed it or as required by law; and
 - ii. Notify Business Associate, who shall in turn promptly notify State, of any instance of which the person or organization becomes aware in which the confidentiality of such PHI/ePHI was breached.

5. DATA AGGREGATION SERVICES

Business Associate may use PHI/ePHI to provide data aggregation services related to State's healthcare operations.

6. PHI/ePHI SAFEGUARDS

Business Associate shall develop, implement, and maintain appropriate safeguards to prevent the improper use or disclosure of any PHI/ePHI received from or on behalf of State.



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7. ePHI SECURITY AND INTEGRITY

Business Associate shall develop, implement, and maintain appropriate administrative, technical, and physical security measures in compliance with Section 1173(d) of the Social Security Act, (Title 42, Section 1320.d-2(d) of the United States Code) and CFR 45-164.314(a)(2) to preserve the integrity and confidentiality of all electronically maintained or transmitted ePHI received from or on behalf of State pertaining to an Individual; Business Associate shall document and keep the security measures current.

8. ELECTRONIC TRANSACTIONS

If Business Associate conducts any Standard Transaction for or on behalf of State, Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of CFR 45-162.

9. SUBCONTRACTORS AND AGENTS

Business Associate shall require each of its subcontractors or agents to whom Business Associate provides PHI/ePHI received from, created by, or received by Business Associate on behalf of State to agree to at least the same obligations to protect such PHI/ePHI as are imposed on Business Associate by the Contract.

10. ACCESS TO PHI/ePHI

Business Associate shall provide access to State or a requesting Individual to PHI/ePHI in a Designated Record Set to meet the requirements of CFR 45-164.E.524 and applicable state laws. Business Associate shall provide access in a reasonable time and manner consistent with State's health information privacy and security policies and procedures.

11. AMENDING PHI/ePHI

Business Associate shall make any amendments to PHI/ePHI in a Designated Record Set that State directs or agrees to pursuant to CFR 45-164.E.526 at the request of the State or a requesting Individual in a reasonable time and manner consistent with State's health information privacy and security policies and procedures.

12. ACCOUNTING OF DISCLOSURES OF PHI/ePHI

Business Associate shall document disclosures of PHI/ePHI and information related to such disclosures as are required for State to respond to a request by an Individual for an accounting of disclosures of PHI/ePHI in accordance with CFR 45-164.E.528. Business Associate shall provide State or the Individual, in a reasonable time and manner consistent with State's health information privacy and security policies and procedures, information collected in accordance with the Contract to permit State to respond to a request by an Individual for the required accounting of disclosures of PHI/ePHI.

13. ACCESS TO BOOKS AND RECORDS

Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI/ePHI received from or on behalf of State available to the U.S. Department of Health and Human Services ("DHHS") or its designee if DHHS so requires to determine State's compliance with the Privacy Rule.



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14. REPORTING

Business Associate shall report to State any use or disclosure of PHI/ePHI not authorized by the Contract, or in writing by State of which it becomes aware. Business Associate shall make the report to State's Privacy Official within twenty-four (24) hours after it learns of the unauthorized use or disclosure. Business Associate's report must contain identification of:

- (a) the nature of the unauthorized use or disclosure;
- (b) the PHI/ePHI used or disclosed;
- (c) who made the unauthorized use;
- (d) who received the unauthorized disclosure;
- (e) what Business Associate has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure;
- (f) what corrective action Business Associate has taken or will take to prevent future similar unauthorized use or disclosure; and
- (g) such other information as may be reasonably requested by State's privacy officer.

15. MITIGATION

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/ePHI by Business Associate in violation of the requirements of the Contract.

16. TERMINATION FOR CAUSE

Upon State's learning of a material breach by Business Associate of the terms of this paragraph, State shall:

- (a) provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by State;
- (b) immediately terminate the Contract if Business Associate has breached a material term of the Contract and cure is not possible; and
- (c) if neither termination nor cure is feasible, report the violation to DHHS.

17. RETURN OR DESTRUCTION OF INFORMATION

Except as provided below, upon termination, cancellation, expiration, or other conclusion of the Contract, Business Associate shall return to State or destroy all PHI/ePHI received from State, or created or received by Business Associate on behalf of State. This provision shall apply equally to PHI/ePHI that is in the possession of subcontractors or agents of Business Associate. Except as provided below, Business Associate shall retain no copies of the PHI/ePHI. In the event that Business Associate reasonably determines that returning or destroying the PHI/ePHI is not feasible, Business Associate shall extend the protections of the Contract to such PHI/ePHI and limit further uses and disclosure of PHI/ePHI to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such PHI/ePHI.

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18. STATE'S DUTIES

State shall:

- (a) provide Business Associate with the notice of privacy practices that the State produces in accordance with Title 45, Part 164, Subpart E, Section 164.520, as well as any changes to that notice;
- (b) provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI/ePHI if such changes affect Business Associate's permitted or required uses and disclosures;
- (c) notify Business Associate, in writing, of any restriction to the use of disclosure of PHI/ePHI that the State has agreed to in accordance with Title 45, Part 164, Subpart E, Section 164.522;
- (d) provide to, or request from, Business Associate only the minimum PHI/ePHI necessary for Business Associate to perform or fulfill a specific function required or permitted hereunder; and
- (e) not request Business Associate to use or disclose PHI/ePHI in any manner that would not be permissible under HIPAA if done by the State.

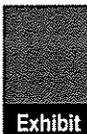
19. AUTOMATIC AMENDMENT

Upon the effective date of any amendment to the regulations promulgated by DHHS with respect to PHI/ePHI, the Contract shall automatically amend such that the obligations imposed on Business Associate as a Business Associate remain in compliance with such regulations.

20. ASSISTANCE UPON TERMINATION

When the term of the Contract ends or if the Contract is terminated with or without cause, Contractor, whenever determined appropriate by State, shall assist State in the transition of services to other vendors or State's own personnel. Such assistance and coordination shall include but not be limited to the forwarding of Contract works, electronic files, and other records to assure the smoothest possible transition and continuity of services. The cost of reproducing and forwarding such records and other materials shall be borne by Contractor. Contractor must make provisions for continuing all performance under the Contract, to include management/ administrative services, until the transition of services is complete and all other requirements of the Contract are satisfied.

End of Exhibit





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FOR USE IN ANY INVITATION FOR BIDS, REQUEST FOR PROPOSALS, OR REQUEST FOR QUOTATIONS,
AS WELL AS REQUEST FOR QUALIFICATIONS UNDER A.R.S. § 41-2558

EXHIBIT 3 to the Special Terms and Conditions:
Supplemental Provisions for Services Disentanglement

Date: 01/27/2017

1. General

- 1.1 Further to the "transitions" described generally elsewhere in Special Terms and Conditions, the term "disentanglement" is used in this subparagraph to describe a complete transition of some or all of the Services to or from Contractor to another vendor in the event of expiration or earlier termination of the Contract. Contractor shall, for its part, make every effort to ensure that any necessary disentanglement is carried out with the minimum of adverse effect on State's operations or those elements of the public for whose benefit the Services are being performed.
- 1.2 If either State, Contractor, or the other vendor (whether incoming or outgoing) becomes of the considered opinion that the specified transition period duration is insufficient to ensure the necessary, effective, and efficient hand-over, then it shall so notify the other two parties immediately and provide the detailed basis for its opinion. If and to the extent that actions or inactions of either State or the other vendor form the reasons for the specified duration not being sufficient, then State shall reimburse Contractor for its actual and documented incremental, additional costs incurred to the extent attributable to the extended duration.
- 1.2.1 If and to the extent that Contractor's actions or inactions form the reasons for the specified duration not being sufficient, then State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions to recover its own and the other vendor's incremental, additional costs incurred to the extent attributable to the extended duration.
- 1.2.2 If and to the extent that none of the three parties' actions or inactions are plainly the cause of the extended duration, then each will bear its own costs separately and without recourse to the others.

2. Contractor as Incoming Vendor

- 2.1 When Contractor is the incoming vendor, Contractor's personnel shall perform in tandem with and overlapping the assignments of the outgoing vendor's personnel during the agreed transition period.
- 2.1.1 Unless expressly specified otherwise in the Scope of Work or the Commercial Document, the transition duration will be 90 (ninety) days starting 90 (ninety) days before the scheduled expiration of the Contract or 60 (sixty) days after earlier termination of the Contract starting on the termination notification date; and
- 2.1.2 Contractor's costs of salary and expense for personnel while engaged in the transition are accounted for and included in the prices or rates set forth in the Commercial Document, and Contractor shall not bill State for those separately.



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- 2.2 When Contractor is the incoming vendor, Contractor shall, if State so directs:
- receive the program--related, project--related, or scope-related records from the outgoing vendor directly; and
 - receive the appropriate indexing, cataloging, and user assistance so that Contractor can make immediate use of the records as efficiently as possible.

3. Contractor as Outgoing Vendor

- 3.1 When Contractor is outgoing vendor, Contractor's personnel shall perform in tandem with and overlapping the assignments of the incoming vendor's personnel during the agreed transition period.
- 3.2 When Contractor is outgoing vendor, Contractor shall, so long as they remain in its employ, make its personnel who were key personnel or who filled subject matter expert roles under the Contract available by telephone or email to answer project-related or scope-related questions for a reasonable period after the formal transition is complete. Unless expressly specified otherwise in the Scope of Work or the Commercial Document, Contractor's costs of salary and expense for personnel while providing that assistance are accounted for and included in the prices or rates set forth in the Commercial Document, and Contractor shall not bill State for those separately.
- 3.3 When Contractor is outgoing vendor, Contractor shall, if State so directs:
- hand-off its program-, project- or scope-related records to the incoming vendor directly; and
 - provide appropriate indexing, cataloging, and user assistance to the incoming vendor's personnel so that they can make immediate use of the records as efficiently as possible.
- 3.4 Unless expressly specified otherwise in the Scope of Work or the Commercial Document, Contractor's costs of providing the aids and assistance under paragraph 3.3 are accounted for and included in the prices or rates set forth in the Commercial Document, and Contractor shall not bill State for those separately.

4. Systems

- 4.1 If the Services include development or deployment of any systems, then unless expressly specified otherwise in the Scope of Work, Contractor shall provide State as part of the transition:
- uninterrupted access to and maintenance and support for any functionalities that are in deployment or production state at the time;
 - a timetable or schedule for migrating front-end, back-end, and data from Contractor to State or the incoming vendor; and
 - a pro-rata adjustment of any maintenance fees for any commercial-off-the-shelf software that are to be transitioned.
- 4.2 If the Services include development or deployment of any systems and if indicated in the Scope of Work that State will take on operation or support of the system with its own forces, then unless expressly specified otherwise in the Scope of Work, Contractor shall provide State with a take-over plan that sets out:

Supplemental Provisions for Services Disentanglement

Date date: 01/27/2017

Version: 1.2 (06/15/2016)

EXHIBIT 3 to the Special
Terms and Conditions:

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Exhibit



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- a) the training and experience requirements and requisite skills for the transition technical planning and support sub-team, application development sub-team, production support sub-team, and any other sub-teams necessary to effect a successful take-over;
- b) the estimated staffing by role State will require to adequately operate or support the system long-term;
- c) the mandatory and recommended training by role (e.g., database administrator, business analyst, system developer) covering the business processes, system specific processes, and applicable toolsets, and
- d) how assigned State staff will be paired with Contractor key personnel during system development, implementation, and transition.

End of Exhibit



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**SECTION 3-A:
 Special Terms and Conditions**

Date: 06/09/2017

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

1.11 Contract Terms and Conditions

Those Uniform Terms and Conditions Appendices for particular work categories that are marked with "●" below are part of the Contract Terms and Conditions, and the ones marked "○" are not, regardless of whether or not a document by that name happens to be bound in with the Solicitation or Contract documents. The version date of the appendix as included in the Contract Terms and Conditions is indicated below.

Changes

The State reserves the right to revise significant changes in the scope, character, and/or complexity of the work and may be negotiated if it is mutually agreed that such changes are desirable and necessary. Contract changes defining and limiting the work and compensation must be documented in a written Contract Amendment, as defined by A.R.S §41-2503, R-2-7-101(15) and signed by the Procurement Officer.

Eligible Agencies

Any contract resulting from this solicitation shall be for the use of all State of Arizona Departments, Agencies, and Boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in any resultant contract, a university, political subdivision, nonprofit educational, or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes §41-2632.

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

2.1 Arizona Law

The federal laws and regulations scheduled in Exhibit 1 [*Supplemental Provisions for Federal Work*] apply to the operation and interpretation of the Contract in addition to Arizona law, and take precedence over any Arizona law with respect to interpretation to the extent such precedence is essential to their individual purpose.

MODIFIED or ADDED Provision

3.1 Term of Contract



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MODIFIED or ADDED Provision

REVISE to read "an initial term of one (1) years" for "period specified in the Special Terms and Conditions."

MODIFIED or ADDED Provision

3.2 Contract Extensions

REVISE to read "not to exceed four (4) years" for "period specified in the Special Terms and Conditions."

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

3.14 Ordering Process

3.14-S1 USE OF THE CONTRACT. The Contract is to be used as follows (indicated by the "●" mark):

- | | |
|----------------------------------|--|
| <input type="radio"/> | The Contract is a "single-agency/single-use" contract for the exclusive use of Agency for a single purchase, project, or assignment (referred to internally as "Bulk Fuel and Bulk Fuel Propane"). |
| <input checked="" type="radio"/> | The Contract is a "statewide" contract for multiple purchases, projects, or assignments, and can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a "statewide" contract hereunder.

The Contract is an indefinite delivery, indefinite quantity (ID/IQ) type of contract; it is to be construed as a "delivery order" sub-type of ID/IQ contract to the extent the Work is Materials, and a "task order" sub-type to the extent the Work is Services (<u>Subpart 16.5 of the Federal Acquisition Regulation</u> provides reference explanations). |

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

3.14 Orders, continued

3.14-S2 ORDERING METHODS. Upon award of a contract any designated Agency may procure the specific material and/or service awarded by the issuance of a contract purchase order to the appropriate Contractor. Each contract purchase order must cite the correct contract number. The award of a contract shall be in accordance with the Arizona Procurement Code and all transactions and procedures required by the Code for public bidding shall be complied with. A contract purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the using agency to order and the Contractor to deliver the material and/or service. Any attempts to represent any material and/or service not specifically awarded as being under contract is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual



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remedies available to the State inclusive of but not limited to contract cancellation, suspension, and/or debarment of the Contractor.

Unless a particular ordering method is specified in the Commercial Document, Contractor shall receive Orders by the methods indicated by an "●" mark below.

3.14-S2(a) The choice of method in each instance will be at the discretion of each Eligible Agency or Co-Op Buyer if more than one method applies to the Contract.

3.14-S2(b) Contractor shall bear the responsibility for and costs of set-up, maintenance, and support for the indicated methods; The Eligible Agency or Co-Op Buyer will not be liable for any separate set-up, service or system maintenance charges on top of the contractual item prices unless expressly stated otherwise in the Commercial Document.

- Online through ProcureAZ by "releasing" established Contract "Items."
- Online through the following Contractor-provided and Contractor-maintained secure ecommerce website or other online end-user order handling system, which must be configured to prevent ordering of off-contract or excluded items:
enter URL or platform brand name
- Online through the following third party or Subcontractor provided and maintained secure ecommerce website or other online end-user order handling system, which must be configured to prevent ordering of off-contract or excluded items:
enter URL or platform brand name
- By a Contractor-provided, staffed toll-free telephone number available in select 24/7/365 between start hour a.m. MST and end hour p.m. MST on every day through day, select select holidays:
enter number(s)
- By a Contractor-provided dedicated or monitored secure email address for ordering:
enter address.
- By bank-issued purchasing card or business credit card ("P-Card") at either a physical point-of-sale or by telephone, fax, or online. Contractor shall pay any fees or commissions charge by the P-Card carrier, and shall not charge any additional amounts for Orders made by P-Card.
- By hard copy purchase orders by select.



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APPEND the following to the referenced paragraph:

3.14 Orders, continued

3.14-S3 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 State. The State reserves the rights to obtain like goods or services from another source when necessary. The Chief Procurement Officer may only approve off-contract Purchase Authorization. Approval shall be at the discretion of the Chief Procurement Officer and shall be conclusive, however, approval shall be granted only after a proper review and when deemed to be appropriate. Off-contract procurement shall be consistent with the Arizona Procurement Code.

Exclusivity of scope or location applies as indicated by the "●" mark below:

- The Contract has been awarded with the understanding and agreement that it is for the sole convenience of State, and State reserves the right to obtain like materials or services from another source when necessary without penalty or obligation.
- The Contract has been awarded with the understanding and agreement that it is exclusive to Contractor for the combination of products and delivery/service locations the Contract covers, subject to the *Exclusivity Agreement* that is Exhibit 3 to these Special Terms and Conditions.

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

3.15 Statewide Contract Provisions

3.15-S1 The administrative fee under subparagraph 3.15(3) is one (1%) percent against all sales to Co-Op Buyers under the Contract.

MODIFIED or ADDED Provision

APPEND the following to the referenced paragraph:

6.2 Insurance

- 6.2-S1** Contractor shall provide the insurance specified in Exhibit 1 to these Special Terms and Conditions for each "Insurance Package" (Tables A-E) and "Add-On" (Table F) indicated by a "●" mark in the table below.
- 6.2-S2** Subcontractors shall provide insurance equivalent to what is required from Contractor at **100% (one hundred percent)** of Contractor's required minimums for all coverages other than Damage to Rented Premises, which is unchanged if that coverage applies to the Contract.

1.0 MINIMUM SCOPE AND LIMITS OF INSURANCE

- 1.1** Contractor shall provide coverage at least as broad and with limits of liability not less than those indicated as "REQUIRED" in the Insurance Limits Tables that follow this Exhibit.
- 1.2** Contractor shall provide the additional coverage elements that are indicated as "REQUIRED" in Add-Ons Table that follows the Insurance Limits Tables.



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- 1.3 The Tables are cumulative requirements – the “Add-Ons” are the required riders, floaters, special endorsements, etc., that are **in addition to the required coverage** indicated in whichever one of Tables A, B, C, D, or E is required.

2.0 GENERAL INSURANCE REQUIREMENTS

- 2.1 Contractor shall procure the required insurance against claims for injury to persons or damage to property that may arise from or in connection with its performance under the Contract. Reference herein to “Contractor’s performance under the Contract” or a like construction is to be construed every time as being a reference to Contractor’s performance under the Contract and performance by all its Subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, sub-consultants, and agents that is in any way connected with the Contract.
- 2.2 Contractor shall maintain the required coverage until all its obligations under the Contract including warranties have been satisfied, excluding only the record retention obligations that remain once all other obligations have expired or been satisfied. References to “Contractor’s obligations under the Contract” or a like construction is to be construed every time as being a reference to Contractor’s obligations under the Contract and the obligations of all its Subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, sub-consultants, and agents that are in any way connected with the Contract.
- 2.3 The insurance requirements herein are minimums, and in no way limit indemnities given under the Contract. State in no way warrants that these minimums are sufficient to protect Contractor from all the liabilities that might arise out performance under the Contract with respect to Contractor or its Subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, sub-consultants, agents, representatives, or employees. Contractor is free to purchase any additional insurance it determines to be in its best interest, however, State will have no obligation to pay for or reimburse Contractor for any such additional coverage it elects to obtain.
- 2.4 All policies obtained in satisfaction of these minimum requirements must stipulate, or be endorsed to stipulate, as required by this written agreement, that:
- .1 the insurance afforded Contractor is primary and that any insurance carried by or available to State is excess and non-contributory, as provided in A.R.S. § 41-621(E); and
 - .2 the insurance provided by Contractor does not and will not limit Contractor’s liability assumed under the indemnification provisions of the Contract.
- 2.5 For all policies obtained in satisfaction of these minimum requirements, the policy must provide that it will not expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days’ prior written notice to State. Within two (2) business days after receiving any insurer notice that a policy has expired, been suspended, cancelled or materially changed for any reason or that it will be expiring, suspended, cancelled or materially changed for any reason. Contractor shall provide the notice to State in conformance to the regular notice provisions set out elsewhere in the Terms and Conditions.
- 2.6 All policies obtained in satisfaction of these minimum requirements must be placed with insurers that:
- .1 are licensed in the State of Arizona or hold approved non-admitted status on the current Arizona Department of Insurance *List of Qualified Unauthorized Insurers*; and
 - .2 have an A.M. Best rating of not less than ‘A- VII’, provided that, State of Arizona in no way warrants that such a rating is sufficient to protect the Contractor from the potential of insurer insolvency.



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3.0 COVERAGE-SPECIFIC REQUIREMENTS

Commercial General Liability

- 3.1 Every Commercial General Liability ("CGL") policy must:
- .3 include Bodily Injury, Property Damage, and Broad Form Contractual Liability coverage;
 - .4 be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as ADDITIONAL INSUREDS with respect to liability arising out of the activities performed by or on behalf of Contractor; and
 - .5 contain a WAIVER OF SUBROGATION endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.

Business Automobile Liability

- 3.2 Every Business Automobile Liability policy must:
- .6 cover bodily injury and property damage for any owned, hired, and/or non-owned automobiles used in the performance of the Contract;
 - .7 be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as ADDITIONAL INSUREDS with respect to liability arising out of the activities performed by, or on behalf of, Contractor involving automobiles owned, hired and/or non-owned by Contractor;
 - .8 contain a WAIVER OF SUBROGATION endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.

Workers Compensation and Employer's Liability

- 3.3 Every Workers Compensation and Employer's Liability policy must contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor. The foregoing requirement does not apply if both (1) Contractor is exempt under A.R.S. § 23-901 and (2) Contractor has executed and filed the applicable waiver forms needed to make the exempting waiver effective.

Professional Liability

- 3.4 Every Professional Liability policy must:
- .9 if written on a claims-made basis, be warranted by Contractor to the effect that:
 - (a) any retroactive date under the policy precedes the effective date of the Contract; and
 - (b) continuous coverage will be maintained or an extended discovery period will be exercised for 2 (two) years beginning when work under the Contract is completed; and
 - .10 expressly cover professional misconduct or negligent acts for all key personnel or named positions called out in the Scope of Work (Section 2-A of the Solicitation).



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Professional Environmental Liability

- 3.5 Paragraph 3.4 applies as well to any required Professional Environmental Liability coverage, but in addition, the coverage must include claims of bodily injury or property damage arising out of pollution or environmental work, asbestos work, laboratory analysis, and/or operations of a treatment plant if and to the extent that those things are included in the scope of the Contract.

Contractor's Pollution Liability; Pollution Legal Liability

- 3.6 Every Contractor's Pollution Liability and every Pollution Legal Liability policy must each and separately:
- cover losses caused by pollution conditions that arise from the operations Contractor carries out under the Contract;
 - .11 be specific to the operations Contractor carries out under the Contract;
 - .12 include coverage for:
 - (a) pollution losses arising out of Contractor's completed operations;
 - (b) bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs;
 - (c) property damage and physical damage to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed including diminution in value;
 - (d) environmental damage including physical damage to soil, surface water, ground water, or plant or animal life caused by pollution conditions and giving rise to cleanup costs;
 - (e) asbestos, lead, and mold, with no exclusions; and
 - (f) non-owned disposal site coverage;
 - .13 specify that pollution coverage applies to:
 - (a) all locations use for acceptance, storage, or disposal of any hazardous materials under the Contract;
 - (b) all phases of the work carried out under the Contract; and
 - (c) coverage for losses that arise from a covered facility for both sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants, into or upon land, atmosphere, or any watercourse or body of water which results in cleanup costs, bodily injury, or property damage;
 - .14 be written on either an occurrence basis with no sunset clause or a claims-made basis that Contractor has warranted to the effect that (a) any retroactive date under the policy precedes the effective date of the Contract and (b) continuous coverage will be maintained or an extended discovery period will be exercised for 10 (ten) years beginning when work under the Contract is completed;
 - .15 include defense, which includes costs, charges and expenses incurred in the investigation, adjustment or defense of claims for compensatory damages;
 - .16 be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as ADDITIONAL INSURED with respect to liability arising out of the activities performed by or on behalf of Contractor; and



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- .17 contain a WAIVER OF SUBROGATION endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by Contractor.

Technology Errors and Omissions

- 3.7 Technology Errors and Omissions insurance must cover any and all errors, omissions, or negligent acts in the delivery of products, services, and/or programs being licensed under the Contract. Coverage must either expressly include or make no exclusion of settlement and/or defense of claims involving intellectual property, including at a minimum patent and/or copyright infringement.

Media Liability

- 3.8 Media Liability insurance must:
- .18 cover any and all errors, omissions, or negligent acts in the production of content, including at a minimum plagiarism, libel, slander, false advertising, invasion of privacy, and infringement of copyright, title, slogan, trademark, service mark, and trade dress; and
- .19 be written on either an occurrence basis with no sunset clause or a claims-made basis warranted by Contractor to the effect that (a) any retroactive date under the policy precedes the effective date of the Contract and (b) continuous coverage will be maintained or an extended discovery period will be exercised for 2 (two) years beginning when work under the Contract is completed.

Network (Cyber) Security and Privacy Liability

- 3.9 Network Security and Privacy Liability insurance must:
- .20 include coverage for:
- (a) third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, identity theft, theft of data), invasion of privacy regardless of the type of media involved, crisis management, and identity theft response costs; and breach notification costs, credit remediation and 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;
- .21 be written on either an occurrence basis with no sunset clause or a claims-made basis that Contractor has warranted to the effect that (a) any retroactive date under the policy precedes the effective date of the Contract and (b) continuous coverage will be maintained or an extended discovery period will be exercised for 2 (two) years beginning when work under the Contract is completed;
- .22 be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as ADDITIONAL INSURED with respect to liability arising out of the activities performed by or on behalf of Contractor; and
- .23 contain a WAIVER OF SUBROGATION endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by Contractor.

Builder's Risk

- 3.10 Builder's Risk insurance must:
- .24 be written on an "all risk", replacement cost basis, and include coverage:



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- (a) for flood and earth movement;
 - (b) for losses during equipment testing and commissioning;
 - (c) from the time the covered property first becomes Contractor's responsibility and continuing without interruption during installation, including any time during which it is being transported to the installation site or awaiting installation either on or off the site;
- .25 be maintained until whichever of the following occurs first:
- (a) final payment has been made by State; or
 - (b) no person or entity other than State has any insurable interest in the covered property;
- .26 be endorsed such that the insurance will not be canceled, lapse, or be reduced because of any partial use or occupancy by State, provided that, any such partial use or occupancy will be subject to insurers' consent given by endorsement or other mutually-agreeable instrument, which consent the insurers shall not unreasonably withhold; the parties shall:
- (a) take the joint or individual steps reasonably necessary at the time to obtain the requisite consent; and
 - (b) do nothing with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance;
- .27 be endorsed to include the interest of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees, and all Subcontractors and their agents, and employees;
- .28 be endorsed to include State as Loss Payee; and
- .29 contain a WAIVER OF SUBROGATION endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by Contractor.
- 3.11 Contractor shall bear the costs attributable to any failure on its part to purchase and maintain the required Builder's Risk insurance, regardless of whether the damage from that failure was suffered by State or by Subcontractors.
- 3.12 Contractor shall pay all deductibles on the Builder's Risk coverage. If the Contractor or insurer increases the required minimum deductibles above the amounts so identified or if the Contractor elects to purchase this insurance with voluntary deductible amounts, the Contractor shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles.

4.0 VERIFICATION OF COVERAGE

- 4.1 Before any work commences, Contractor shall furnish State with certificates of insurance on valid ACORD or approved equivalent forms evidencing that Contractor has the required insurance.
- 4.1.1 Each certificate must be signed by an authorized representative of the applicable insurer.
 - 4.1.2 The effective date of every policy must be earlier than the date the covered work did or is scheduled to commence.
 - 4.1.3 Failure to provide the required certificates or to failure to provide evidence of subsequent renewals will be a material breach of the Contract.
 - 4.1.4 State's receipt without comment of non-compliant or incomplete certificates or policy endorsements is not and is not to be construed to be a waiver of any requirements.



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- 4.1.5 Contractor shall send all certificates and renewals to State's representative designated in the Special Terms and Conditions for insurance certificates. If no such representative is designated, then Contractor shall send them to the same address as given elsewhere in the Contract Terms and Conditions for regular notices. Contractor shall note State's project/contract number and project/contract description on each certificate.
- 4.2 Where the Contract requires that a Contractor or Subcontractor insurance policy include State as additional insured, Contractor acknowledges that State has the right to protect its ability to claim under that policy.
- 4.2.1 Contractor agrees that State may, to protect the aforementioned right, demand evidence that the policy complies with the Contract. Contractor shall provide complete copies of its insurance policies as evidence that they comply with the Contract promptly upon written demand from a responsible officer of the Arizona Department of Administration Risk Management Division ("State Risk Officer").
- 4.2.2 If Procurement Officer has determined under Article 4 of the Instructions to Offerors (Section 1-B of the Solicitation) that Contractor's insurance documentation contained, or that its entire insurance program was, confidential information, then State Risk Officer will accept redacted copies of Contractor's insurance policies in lieu of complete policies so long as the submission is (a) accompanied by names and credentials of those who prepared them and (b) made under the notarized signature of an officer, principal, or partner of the Contractor attesting to the authenticity of the documents before redaction. If Contractor is an individual, then his or her notarized signature will suffice.
- If State Risk Officer discovers material omissions or inconsistencies in a submission (whether under subparagraph 4.2.1 or 4.2.2), he or she shall notify Contractor promptly, upon which notice Contractor shall rectify the notified deficiencies. If State Risk Officer, in his or her reasonable opinion, determines the submission (or re-submission, as the case may be) does not evidence compliance sufficiently for State to be assured of its ability to claim under that policy, then he or she shall notify Contractor promptly, citing the justification for the determination. Contractor shall provide promptly any further or missing evidence called for in the notice. If Contractor does not, then State may obtain compliant coverage in Contractor's name and recover all its costs for doing so from Contractor under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions or terminate the Contract for default under Article 9 of the Uniform Terms and Conditions.
- 4.3 Where the Contract does not require that a Contractor or Subcontractor insurance policy include State as additional insured, Contractor recognizes that State nonetheless has a legitimate interest in examining evidence that that the policy complies with the Contract. Accordingly, Contractor agrees that State may rightfully demand evidence in addition to the specified certificates of insurance. Contractor shall provide complete copies of its insurance policies as evidence that they comply with the Contract promptly upon written demand from State Risk Officer, and subparagraphs 4.2.2 and 4.2.3 will apply to those coverages as well.
- 4.4 If an Annex 2 [Accepted Evidence of Insurance Compliance] is listed in Article 0 of this Exhibit, then State has already accepted the documentation in that annex as evidence that Contractor's program of insurance complies with the requirements of the Contract and no further submissions under paragraphs 4.1, 4.2, or 4.3 are required unless and until Contractor or its insurers make a material change to the content of the program or the documentation in the annex, in which case paragraphs 4.1, 4.2, and 4.3 will all apply with respect to whatever was changed and the effect of



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those changes on the program or the documentation. If no such annex is listed, then paragraphs 4.1, 4.2, or 4.3 all apply without limitation or qualification.

5.0 SUBCONTRACTORS' INSURANCE

- 5.1 Contractor's certificates of insurance must include, at a minimum, all Subcontractors as insureds or else Contractor will be responsible to State for ensuring that each Subcontractor has its own valid and collectable insurance evidenced by compliant certificates of insurance and endorsements.
- 5.2 Every first-tier Subcontractor must provide equivalent insurance to that required from Contractor, except that the minimum limits for Subcontractors are as specified in the Special Terms and Conditions.
- 5.3 State may demand evidence from Contractor of compliant Subcontractor insurance at any time during the term of the Contract, and Contractor shall provide it promptly in each instance.

6.0 MODIFICATIONS

- 6.1 State may, by written instruction, modify minimum insurance limits, required coverages, or required endorsements throughout the term of the Contract.
- 6.2 If the net effect of modifications under paragraph 6.1 is to increase limits or coverage or to require additional endorsements, then Contractor may submit a claim for price increase in the manner prescribed in Commercial Document (Part 2 of the Solicitation), except that as required substantiation Contractor shall instead provide verifiable quotes and invoices from its insurers with a cover letter from each one stating that the premium increase is entirely attributable to the modified requirements. Once mutually agreed, the modifications and any price increases are to be incorporated by Contract Amendment. Contractor shall provide updated certificates within 10 (ten) business days after both parties have executed the amendment. If the net effect of modifications under paragraph 6.1 is to decrease limits or coverage or to strike any endorsement requirements, then Contractor shall submit a price reduction in the manner

7.0 EXCEPTIONS

If Contractor or Subcontractor is a public entity, then these minimum insurance requirements do not apply, provided that, the entity in question shall provide to State a certificate of self-insurance, unless Contractor or Subcontractor is a State of Arizona agency, board, commission, or university, in which case no evidence of insurance is required.

EXHIBITS to the Special Terms and Conditions

Exhibits 1, 2, and 3 apply as described above. The other Exhibits (if any are listed) apply to those portions of the Work the Exhibit covers. For example, an Exhibit providing supplemental provisions for federal work applies to any portions of the Work that are federally-funded, and an Exhibit providing supplemental provisions for privacy protection applies to any portions of the Work that involve handling of protected or private information.

- **Exhibit 1 ... Contractor Insurance Requirements**
Bound separately, 6 pages, dated 01/27/2017

NOTE: The completed Attachment 3-D [Performance Guarantee] from Accepted Offer will become Exhibit 2 to the Special Terms and Conditions – accordingly, there is no "Exhibit 2" document included as part of the Solicitation.



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- **Exhibit 2 ... Supplemental Provisions for Privacy Protection**
Bound separately, 3 pages, dated 01/27/2017
- **Exhibit 3 ... Supplemental Provisions for Services Disentanglement**
Bound separately, 3 pages, dated 01/27/2017

End of Section 3-A





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SECTION 3-B:
Uniform Terms and Conditions

Version: 11.3 (7/21/2016)

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Uniform Terms and Conditions

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

- 1.1 Acceptance** "Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services.
- 1.2 Accepted Offer** If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer. If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer. If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer.
- 1.3 Arizona Procurement Code; A.R.S.; A.A.C.** "Arizona Procurement Code, "A.R.S.," and "A.A.C." are each defined in the Instructions to Offerors.
- 1.4 Arizona TPT** "Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at: <https://www.azdor.gov/business/transactionprivilegetax.aspx>.
- 1.5 Attachment** "Attachment" means any item that:
1. the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO);
 2. was attached to an Offer when submitted; and
 3. was included in the Accepted Offer.
- 1.6 Building Work** "Building Work" means everything covered by the definitions in A.R.S. § 41-2503 [*Definitions*] of the terms "construction" (para. 4), "maintenance services" (para. 26), and "operations services" (para. 28).
- 1.7 Commercial Document** "Commercial Document" means Section 2-B of Part 2 of the Solicitation Documents, provided that, if there is no such Section in the Contract, then "Commercial Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.
- 1.8 Contract** "Contract" means, collectively, the Acceptance, the Solicitation Documents, the Accepted Offer, all acknowledged Orders, and any Contract Amendments. See paragraph 1.22. The Contract is identified as a "Purchase Order" in ProcureAZ, since that is the terminology used in the software; use of that term in ProcureAZ is not to be confused with the contractual term "Order" defined in paragraph 1.21.
- 1.9 Contract Amendment** "Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. The term "Change Order" in ProcureAZ is to be construed as being synonymous with "Contract Amendment".
- 1.10 Contract Terms and Conditions** "Contract Terms and Conditions" means the Special Terms and Conditions and these Uniform Terms and Conditions taken collectively.





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- 1.11 Contractor "Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with State.
- 1.12 Contractor Indemnitor "Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors.
- 1.13 Co-Op Buyer "Co-Op Buyer" means a member of the State Purchasing Cooperative that has entered into a "Cooperative Purchasing Agreement" with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, "Co-Op Buyer" is to be construed as encompassing "eligible procurement unit" under A.A.C. R2-7-101(23).

NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, "non-profit organizations" are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.
- 1.14 Day "Day" means a calendar day unless otherwise specified in a particular context.
- 1.15 Eligible Agency If the Special Terms and Conditions indicates that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein. If the Special Terms and Conditions indicates that the Contract is a "statewide" contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board.
- 1.16 Gratuity "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.17 Indemnified Basic Claims "Indemnified Basic Claims" means any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.3.
- 1.18 Instructions to Offerors "Instructions to Offerors" is Section 1-B of Part 1 of the Solicitation Documents.
- 1.19 Materials "Materials" has the meaning given in A.R.S. § 41-2503(7) to the extent those things are included in the Work, which, for convenience of reference only, is "... all property, including equipment, supplies, printing, insurance, and leases of property [but] does not include land, a permanent interest in land or real property or leasing space." Materials includes software, except that if software is sold or provided as a service, then to the extent it consists of encoded information or computer instructions it is included in "Materials" and to the extent it is a service it is in "Services".
- 1.20 Offer; Initial Offer; Revised Offer; Best and Final Offer (BAFO) "Offer," "Initial Offer," "Revised Offer," and "Best and Final Offer" ("BAFO") are each defined in the Instructions to Offerors.
- 1.21 Order "Order" means the instrument by which State authorizes Contractor to perform some or all of the Work. Whether the Contract will have one Order or many Orders depends the scope of the Contract and how State will use it. The Special Terms and Conditions provide that information. Any of the following is to be construed as being an "Order":
 1. "Release" or "Release Purchase Order" in ProcureAZ;
 2. "task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in ProcureAZ; or
 3. "purchase order" for buying by Co-Op Buyers, if co-op buying applies.





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- 1.22 **Part, Section; Exhibit** "Part," "Section," and "Exhibit" are each defined in the Instructions to Offerors.
- 1.23 **Person** "Person" means any corporation, business, individual, union, committee, club, or other organization or group of individuals.
- 1.24 **Procurement Officer** "Procurement Officer" means the person, or his or her designee, who has been duly authorized by State to enter into and administer the Contract and to make written determinations with respect to the Contract. Procurement Officer is as identified on the Acceptance unless subsequently changed by Contract Amendment.
- 1.25 **ProcureAZ** "ProcureAZ" means State's official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy document *Technical Bulletin No. 020, ProcureAZ – The Official State eProcurement System*.
NOTE (1): Technical Bulletin No. 020 is available online at:
<https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations>
NOTE (2): The URL for ProcureAZ itself is:
<https://procure.az.gov/>
- 1.26 **Scope of Work** "Scope of Work" means Section 2-A of Part 2 of the Solicitation Documents.
- 1.27 **Services** "Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "... the furnishing of labor, time, or effort by [the] [C]ontractor or [S]ubcontractor which does not involve the delivery of a specific end product other than required reports and performance [but] does not include employment agreements or collective bargaining agreements." Services includes Building Work and the service aspects of software described in paragraph 1.19.
- 1.28 **Solicitation; Solicitation Documents** "Solicitation" and "Solicitation Documents" are defined in the Instructions to Offerors.
- 1.29 **Special Terms and Conditions** "Special Terms and Conditions" are Section 3-A of Part 3 of the Solicitation Documents.
- 1.30 **Specification** "Specification" has the meaning given in A.R.S. § 41-2561, which, for convenience of reference only, is "... any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery." Specifications (if any are included in the Contract), are indexed in the Scope of Work and could be bound separately from the other documents forming the Contract.
- 1.31 **State** With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Order.
- 1.32 **State Indemnitees** "State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.
- 1.33 **State Fiscal Year** "State Fiscal Year" means the period beginning each July 1 and ending each June 30.
- 1.34 **Subcontract** "Subcontract" means any contract, express or implied, between Contractor and another party or between a Subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any Materials, the performing of any Services, or the carrying out of any other aspect of the Work.



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- 1.35 **Subcontractor** "Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "... a person who contracts to perform work or render service to ... [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ."The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, a Person carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently.
- 1.36 **Uniform Terms and Conditions** The "Uniform Terms and Conditions" are made up of this document and whichever of the Appendices are indicated in the Special Terms and Conditions as being applicable.
- 1.37 **Work** "Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

2.0 Contract Interpretation

- 2.1 **Arizona Law** The Contract is governed by and is to be interpreted in accordance with the laws of the State of Arizona, including the Arizona Procurement Code, without consideration of conflict of laws principles.
- 2.2 **Implied Terms** Each provision of law and any terms required by law to be in the Contract are a part of the Contract as if fully stated in it.
- 2.3 **Usage** Where the Contract:
 1. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor and all Subcontractors, whether they are first-tier subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subcontractors' respective agents, representatives, and employees" in every instance unless the context plainly requires that it is be a reference only to Contractor as apart from Subcontractors;
 2. uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [*Definitions*]. For clarity of intent, any right given to State using "State may" or a like construction denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that: (a) where written "may, at its discretion," the discretion extends to whatever is most advantageous to State; and (b) where written only as "may," the discretion is constrained by what is fair, reasonable, and as accommodating of the respective best interests of both parties as practicable under the circumstances;
 3. uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [*Definitions*]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition.
 4. uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written "*must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes*" in every instance;
 5. uses the term "might" with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and



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6. uses the term "will" or the phrases "is to be" or "are to be" with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that "shall" is either unnecessary or irrelevant in that instance.

2.4 Contract Order of Precedence

2.4.1 COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

2.4.2 CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

- (a) Contract Amendments;
- (b) the Solicitation Documents, in the order:
 - (1) Special Terms and Conditions;
 - (2) Exhibits to the Special Terms and Conditions;
 - (3) Uniform Terms and Conditions;
 - (4) Scope of Work;
 - (5) Exhibits to the Scope of Work;
 - (6) Commercial Document;
 - (7) Exhibits to the Commercial Document;
 - (8) Specifications; and
 - (9) any other documents referenced or included in the Solicitation;
- (c) Orders, in reverse chronological order; and
- (d) Accepted Offer.

2.4.3 ATTACHMENTS AND EXHIBITS. For clarity of intent, if an item was an Attachment in the Solicitation Documents or an Offer (either Initial, Revised, Best and Final, or Accepted) and was subsequently made into an Exhibit, or its content was incorporated into one of the other Contract documents, then that Attachment no longer exists contractually as an "Attachment" since it has at that point been made into some other Contract document. In every other case, an Attachment and the Offeror data therein remain part of the Accepted Offer for purposes of precedence and contractual effect.

2.5 Independent Contractor

Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

2.6 Severability

Any term or condition deemed or adjudged illegal or invalid is thereby stricken from the Contract and will not affect any other term or condition of the Contract.

2.7 Complete Integration

The Contract, including any documents incorporated into the Contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract.





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2.8 No Waiver
of Rights

Either party's failure to insist on strict performance of any term or condition of the Contract is not and is not to be construed as being, nor will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of the right of, subsequent enforcement of any term or condition.

3.0 Contract Administration and Operation

3.1 Term of Contract

The term of the Contract will commence on the date indicated on the Acceptance and continue for the period specified in the Special Terms and Conditions unless canceled, terminated, or permissibly extended. If the Special Terms and Conditions do not specify a period, then the initial term is 1 (one) year. State has no obligation to extend or renew the Contract past the initial term.

3.2 Contract
Extensions

State may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the period specified in the Special Terms and Conditions. If the Special Terms and Conditions do not specify a period, then the maximum aggregate term is 5 (five) years.

3.3 Notices and
Correspondence

3.3.1 TO CONTRACTOR. Unless stated otherwise in the Special Terms and Conditions, State shall:

(a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding ProcureAZ Vendor Profile; and

(b) address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Accepted Offer, as that address might have been amended during the term of the Contract.

3.3.2 TO STATE. Unless stated otherwise in the Special Terms and Conditions, Contractor shall:

(a) address all Contract correspondence other than format notices to the email address indicated in "Contact Instructions" in the ProcureAZ Summary for State; and

(b) address any required notices to State to Procurement Officer identified as "Purchaser" in the ProcureAZ Summary at the following mailing address:

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3.3.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.

3.4 Signing of Contract
Amendments

Contractor's counter-signature – or "approval" in ProcureAZ, in the case of a Change Order – is not required to give effect if the Contract Amendment only covers either:

1. extension of the term of the Contract within the maximum aggregate term;
2. revision to Procurement Officer appointment or contact information; or
3. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in (1), (2), and (3) above, both parties' signature – or "approval" in ProcureAZ, in the case of a Change Order – are required to give it effect.

3.5 Click-Through
Terms and
Conditions

Unless expressly stated otherwise in the Special Terms and Conditions, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of



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administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

3.6.1 RETAIN RECORDS. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.

3.6.2 RIGHT TO AUDIT. The retained books and records are subject to audit by State during that period. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.

3.6.3 AUDITING. Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.6.1 and 3.6.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.7 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and, unless expressly stated otherwise in the Special Terms and Conditions, for the Work itself.

3.8 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.

3.9 Ownership of Intellectual Property

3.9.1 RIGHTS IN WORK PRODUCT. Unless otherwise provided for in the Special Terms and Conditions, all intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

- (a) "Government Purpose Rights" are:
 - i. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;





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- ii. the right to release or disclose that work product to third parties for any State government purpose; and
 - iii. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.
- (b) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:

- (a) any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product;
- (b) any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and
- (c) except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Special Terms and Conditions, the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.

3.10 Subcontracts

3.10.1 INITIAL LIST. At the time of Contract execution, Contractor's candidate Subcontractors were identified in Attachment 3-C to the Accepted Offer [*Proposed Subcontractors*]. Agreeing to them being included in the Accepted Offer signified Procurement Officer's advance consent for Contractor to enter into a Subcontract with each candidate, which Contractor shall do as promptly as necessary to ensure its ability to carry out the Work in a timely manner.

3.10.2 ADDITIONAL NAMES. Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on Attachment 3-C at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case (a) or (b), Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it.

3.10.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.



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- 3.11 Non-Discrimination Contractor shall comply with [Arizona] State Executive Order No. 2009-09 and all other applicable federal and state laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.
- 3.12 E-Verify Requirements As required by A.R.S. § 41-4401, Contractor and each Subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each Subcontractor acknowledge that under A.R.S. § 41-4401, State retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works under the Contract to ensure that Contractor or Subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract.
- 3.13 Offshore Performance of Certain Work Prohibited Contractor shall only perform those portions of the Services that directly serve State or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Specifications or the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.
- 3.14 Orders
 - 3.14.1 ORDER SUFFICIENCY. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the code for competitive source selection have been met. An Order issued as set forth in the Special Terms and Conditions that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Order.
 - 3.14.2 ORDER TERMS. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions.
 - 3.14.3 ORDERS ARE OBLIGATORY. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.
 - 3.14.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract in the Special Terms and Conditions and (b) the Contract was created in ProcureAZ as something other than a "Master/ Blanket" type.
 - 3.14.5 NO MINIMUMS OR COMMITMENTS. Unless expressly stated otherwise in the Special Terms and Conditions: (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.
 - 3.14.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.





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3.15 Statewide Contract Provisions

If the Special Terms and Conditions indicate that the Contract is for statewide use, then the following provisions apply:

1. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

<https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative>

2. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).
3. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is specified in the Special Terms and Conditions. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>

4. Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

<https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee>

5. Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in ProcureAZ, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in ProcureAZ, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in ProcureAZ, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in ProcureAZ within 3 (three) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in ProcureAZ and if it does so the rejection will be void.
6. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though



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3.19 Advertising, Publishing and Promotion of Contract

necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*].

Contractor shall not advertise, promote, or otherwise use information concerning the Contract for commercial benefit without the prior written approval of Procurement Officer, which approval Procurement Officer may withhold at his or her discretion.

4.0 Costs and Payments

4.1 Payments

4.1.1 **PAYMENT DEADLINE.** State shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Commercial Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Commercial Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in ProcureAZ and provided a current IRS Form W-9 to State unless excused by law from providing one.

4.1.2 **PAYMENTS ONLY TO CONTRACTOR.** Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Accepted Offer.

4.2 Applicable Taxes

4.3.1 **CONTRACTOR TO PAY ALL TAXES.** State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Commercial Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel.

4.3.2 **TAX INDEMNITY.** Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well as any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.

4.3 Availability of Funds

By A.R.S. § 35-154, every State payment obligation under the Contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the Contract, State may terminate the Contract at the end of the period for which funds are available, or, at State's discretion, allow appropriate amendment to the Contract. No liability will accrue to State if it exercises the foregoing right or discretion, and State will have no obligation or liability for any future payments or for any damages as a result of having exercised it.

5.0 Contract Changes

5.1 Contract Amendments

The Contract is issued for State under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.



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5.2 Assignment and Delegation

5.2.1 IN WHOLE. Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.

5.2.2 IN PART. Subject to paragraph 3.10 [Subcontracts] with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.

6.0 Risk and Liability

6.1 Risk of Loss

Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

6.2 Contractor Insurance

Contractor shall provide the insurance called for in the Special Terms and Conditions.

6.3 Basic Indemnification

6.3.1 CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless State Indemnitees from Indemnified Basic Claims that: (a) are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor Indemnitor; (b) arise out of or are recovered under worker compensation laws; and/or (c) arise out of a Contractor Indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor Indemnitors shall indemnify the relevant State Indemnitees from and against Indemnified Basic Claims in all instances except where the Indemnified Basic Claim arises solely from those State Indemnitees' own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for an on behalf of the other Contractor Indemnitors with respect to State Indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor Indemnitors. In consideration of the award of the Contract by a State Indemnitee, Contractor hereby waives all rights of subrogation against State Indemnitees for losses arising from the Work.

If Contractor is a public agency, this paragraph does not apply and subparagraph 6.3.2 below applies instead.

6.3.2 PUBLIC AGENCY. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

If Contractor is not a public agency, this paragraph does not apply and subparagraph 6.3.1 above applies instead.





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6.4 Patent and
Copyright
Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
3. State may elect to participate in such action at its own expense; and
4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.8 [*Performance in Public Health Emergency*], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.





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6.6 Third Party Antitrust Violations Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7.0 Warranties

- 7.1 Liens Contractor warrants that the Materials and Services when accepted will be and will remain free of liens or other encumbrances.
- 7.2 Conformity to Requirements Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.
- 7.3 Contractor Personnel Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.
- 7.4 Intellectual Property Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 7.5 Compliance with Laws Contractor warrants that the Materials and Services do and will continue to comply with all applicable federal, state, and local laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the non-compliance.
- 7.6 Licenses and Permits Contractor warrants that it will maintain all licenses required under paragraph 3.7 [*Contractor Licenses*] and all required permits valid and in force.
- 7.7 Operational Continuity Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.2 [*Assignment and Delegation*] that expressly recognizes the event.
- 7.8 Performance in Public Health Emergency Contractor warrants that it will:
 1. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and
 2. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.5 [*Force Majeure*] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan





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implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

7.9 Lobbying

7.11.1 PROHIBITION.

- (a) Contractor warrants that:
 - i. it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and
 - ii. upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.
- (b) Contractor shall implement and maintain adequate controls to assure compliance with (a) above.
- (c) Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.

7.11.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.10 Survival of Warranties

All representations and warranties made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

8.0 State's Contractual Remedies

- 8.1 Right to Assurance
If State in good faith has reason to believe that Contractor does not intend to, or is unable to, perform or continue performing under the Contract, Procurement Officer may demand that Contractor promptly provide written assurance of intent to perform. Failure by Contractor to provide the assurance within the time specified may be the basis for terminating the Contract or for State to exercise any other remedy available to it under the Contract or laws.
- 8.2 Stop Work Order
The State may at any time require Contractor to stop all or any part of the Work by written order. Upon receipt of a stop order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to State associated with the portions of the Work covered by the order. If Contractor incurs losses, it may make a claim under Article 10.
- 8.3 Non-exclusive Remedies
State's rights and remedies under the Contract are not exclusive.
- 8.4 Nonconforming Tender
The Materials provided and Services performed must comply fully with the Contract, and providing Materials or performing Services or any portion thereof that do not comply fully constitutes a breach of contract, in which event State will be entitled to exercise any remedy available to it under the Contract or laws.
- 8.5 Right of Offset
State is entitled to offset against any sums due Contractor any expenses or costs State incurs or damages it has assessed against it concerning Contractor's non-conforming performance or failure to carry out the Work, including any expenses, costs, and damages to which it is entitled by the Contract or laws.



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9.0 Contract Termination

- 9.1 Termination for Conflict of Interest** By A.R.S. § 38-511, State may terminate the Contract within 3 (three) years after the effective date without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of State is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Contractor receives State's written notice of the termination unless the notice specifies a later date.
- 9.2 Gratuities** State may, by written notice, terminate the Contract, in whole or in part, if State determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of State for the purpose of influencing the outcome of the procurement or the administration of the Contract or any favorable treatment concerning the Contract or performance of the Contract. State, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of 3 (three) times the value of the Gratuity offered by Contractor.
- 9.3 Suspension or Debarment** State may, by written notice to Contractor, terminate the Contract immediately if State discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. State has taken Contractor's submittal of the Accepted Offer and will take its performance under the Contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify Procurement Officer immediately.
- 9.4 Termination for Convenience** State may terminate the Contract when in the best interest of State, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the Contract. Upon receipt of State's written termination notice, Contractor shall stop work as directed in the notice, notify all Subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to State. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the Contract will become State's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination, provided that, the cost principles and procedures in A.A.C. R2-7-701 are to be applied.
- 9.5 Termination for Default** In addition to the rights reserved to it under the Contract, State may terminate the Contract in whole or in part due to Contractor's failure to: (a) comply with any term or condition of the Contract; (b) obtain and maintain all required insurance policies, bonds, licenses, and permits; or (c) make satisfactory progress in carrying out the Work. Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the Contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become State's property, and Contractor shall deliver all of it immediately on demand. State may, following termination of the Contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to State for any excess cost State incurs in procuring such substitutes.
- 9.6 Continued Performance Required** Contractor shall continue to perform in accordance with the requirements of the Contract up to the effective date of any termination, as directed by State in the notice.



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10.0 Contract Claims

- 10.1 **Claim Resolution** Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.
- 10.2 **Mandatory Arbitration** In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.

11.0 General Provisions for Materials

- 11.1 **Applicability** Article 11 applies to the extent the Work is or includes Materials.
- 11.2 **Off-Contract Materials** Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders; State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.
- 11.3 **Compensation for Late Deliveries** Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them.
- 11.4 **Indicate Shipping Costs on Order** Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one).
- 11.5 **Current Products** Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.
- 11.6 **Maintain Comprehensive Selection** Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if applicable.
- 11.7 **Additional Products** State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of





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- discount relative to market price as were the original ones. Demonstration of (b) typically requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products.
- 11.8 Discontinued Products** If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones (with demonstration being as described in subparagraph 11.7).
- 11.9 Forced Substitutions** Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.
- 11.10 Recalls** In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.
- 11.11 Delivery**
- 11.11.1 **PRICING.** Unless stated otherwise in the Commercial Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.o.b. Origin, Contractor's Facility" under FAR 52.247-30.
- 11.11.2 **LIABILITY.** Unless stated otherwise in the Commercial Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.o.b. Destination, Within Consignee's Premises" under FAR 52.247-35.
- 11.11.3 **PAYMENT.** Unless stated otherwise in the Commercial Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately.
- 11.12 Delivery Time** Unless stated otherwise in the Commercial Document generally or in the applicable Order particularly, Contractor shall make delivery within 2 (two) business days after receiving each Order.





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- 11.13 Delivery Locations** Contractor shall offer deliveries to every location served under the scope of the Contract, specifically:
1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
 2. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
 3. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
 4. if the Contract is for unrestricted statewide use, then:
 - (a) Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;
 - (b) if a prospective Co-Op Buyer outside Arizona wishes to order against the Contract, Contractor agrees to negotiate in good faith any fair and reasonable price or lead time adjustments necessary to serve that location if practicable to do so within the scope of its normal business; and
 - (c) if the Commercial Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.
- 11.14 Conditions at Delivery Location** Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions.
- 11.15 Materials Acceptance** State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.
- 11.16 Correcting Defects** Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials.
1. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.



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2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.
3. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within 30 (thirty) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancellation

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

1. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus 1 (one) additional business day;
2. reimburse Contractor for:
 - (a) its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus 1 (one) additional business day; and
 - (b) the cost of any obligations it incurred as of the cancellation effective date plus 1 (one) additional business day that demonstrably cannot be canceled, or that have pre-established cancellation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and
3. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice plus 1 (one) business day or for any lost profits or opportunity.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

11.20 Hazardous Materials

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of





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to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.

- 12.7 **Accuracy of Work** Contractor is responsible for the accuracy of the Services, and shall promptly make all necessary revisions or corrections resulting from errors and omissions on its part without additional compensation. Acceptance by State will not relieve Contractor of responsibility for correction of any errors discovered subsequently or necessary clarification of any ambiguities.
- 12.8 **Requirements at Services Location** Contractor personnel shall perform their assigned portions of the Services at the specific location indicated in the Order (if applicable). Contractor acknowledges that the location might be inside an industrial building, institutional building, or one of various office types and classes. Additionally, if performing the Services requires Contractor personnel to work inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required, Contractor shall contact the facility directly to confirm its most-current security clearance procedures, allowable hours for work, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late performance if Contractor has failed to make the confirmation or comply with the applicable conditions.
- 12.9 **Services Acceptance** State has the right to make acceptance of Services subject to acceptance criteria. State may apply as acceptance criteria conformity to the Contract, accuracy, completeness, or other indicators of quality or other matter for which the Contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. State will not owe Contractor any payment for un-accepted Services; and State may, at its discretion, withhold or make partial payment for any rejected Services if Contractor is still in the process of re-performing or otherwise curing the grounds for State's rejection.
- 12.10 **Corrective Action Required** Notwithstanding any other guarantees, general warranties, or particular warranties Contractor has given under the Contract, if Contractor fails to perform any material portion of the Services, including failing to complete any contractual deliverable, or if its performance fails to meet agreed-upon service levels or service standards set out in or referred to in the Contract, then Contractor shall perform a root-cause analysis to identify the source of the failure and use all commercially reasonable efforts to correct the failure and meet the Contract requirements as promptly as is practicable.
 1. Contractor shall provide to State a report detailing the identified cause and setting out its detailed corrective action plan promptly after the date the failure occurred (or the date when the failure first became apparent, if it was not apparent immediately after occurrence).
 2. State may demand to review and approve Contractor's analysis and plans, and Contractor shall make any corrections State instructs and adopt State's recommendations so far as is commercially practicable, provided that, State may insist on any measures it determines within reason to be necessary for safety or protecting property and the environment.
 3. Contractor shall take the necessary action to avoid any like failure in the future, if doing so is appropriate and practicable under the circumstances.

13.0 Data and Information Handling

- 13.1 **Applicability** Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.
- 13.2 **Data Protection and Confidentiality of Information** Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or





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disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

13.3 Personally Identifiable Information.

Without limiting the generality of paragraph 13.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 *Safeguarding Against and Responding to the Breach of Personally Identifiable Information*; and
2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) Directive CIO P 2180.1 *GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

<https://www.whitehouse.gov/sites/default/files/omb/memoranda/07/m07-16.pdf>

NOTE (2): For convenience of reference only, the GSA directive is available at:

<http://www.gsa.gov/portal/directive/d0/content/658222>

13.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;
2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in (1) above; and
3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in (1) above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.



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14.4.2 NOTIFY OF CLAIMS. State shall notify Contractor promptly of any claim to which a Pass-Through Indemnity might apply. Contractor, with reasonable consultation from State, shall control of the defense of any action on any claim to which a Pass-Through Indemnity applies, including negotiations for settlement or compromise, provided that:

- (a) State reserves the right to elect to participate in the action at its own expense;
- (b) State reserves the right to approve or reject any settlement or compromise on reasonable grounds and if done so timely; and
- (c) State shall in any case cooperate in the defense and any related settlement negotiations.

14.5 Systems and Controls

In consideration for State having agreed to permit Pass-Through Indemnities in lieu of direct indemnity, Contractor agrees to establish and keep in place systems and controls appropriate to ensure that State funds under this Contract are not knowingly used for the acquisition, operation, or maintenance of Materials or Services in violation of intellectual property laws or a third party's intellectual property rights.

14.6 Redress of Infringement.

14.6.1 REPLACE, LICENSE, OR MODIFY. If Contractor becomes aware that any Materials or Services infringe, or are likely to be infringing on, any third party's intellectual property rights, then Contractor shall at its sole cost and expense and in consultation with State either:

- (a) replace any infringing items with non-infringing ones;
- (b) obtain for State the right to continue using the infringing items; or
- (c) modify the infringing item so that they become non-infringing, so long as they continue to function as specified following the modification.

14.6.2 CANCELLATION OPTION. In every case under 14.6.1, if none of those options can reasonably be accomplished, or if the continued use of the infringing items is impracticable, State may cancel the relevant Order or terminate the Contract and Contractor shall take back the infringing items. If State does cancel the Order or terminate the Contract, Contractor shall refund to State:

- (a) for any software created for State under the Contract, the amount State paid to Contractor for creating it;
- (b) for all other Materials, the net book value of the product provided according to generally accepted accounting principles; and
- (c) for Services, the amount paid by State or an amount equal to 12 (twelve) months of charges, whichever is less.

14.6.3 EXCEPTIONS. Contractor will not be liable for any claim of infringement based solely on any of the following by a State Indemnitee:

- (a) modification or use of Materials other than as contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor;
- (b) operation of Materials with any operating software other than that supplied by Contractor or authorized or proposed by a Contractor Indemnitor; or
- (c) combination or use with other products in a manner not contemplated by the Contract or expressly authorized or proposed by a Contractor Indemnitor.

14.7 First Party Liability Limitation

14.7.1 LIMIT. Subject to the provisos that follow below and unless stated otherwise in the Special Terms and Conditions, State's and Contractor's respective first party liability arising from or related to the Contract is limited to the greater of \$1,000,000 (one million dollars) or 3 (three) times the purchase price of the specific Materials or Services giving rise to the claim.



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- 14.7.2 **PROVISOS.** This paragraph 14.7 limits liability for first party direct, indirect, incidental, special, punitive, and consequential damages relating to the Work regardless of the legal theory under which the liability is asserted. This paragraph 14.7 does not limit liability arising from any:
- (a) Indemnified Claim against which Contractor has indemnified State Indemnitees under paragraph 6.3;
 - (b) claim against which Contractor has indemnified State Indemnitees under paragraph 6.4; or
 - (c) provision of the Contract calling for liquidated damages or specifying amounts or percentages as being at-risk or subject to deduction for performance deficiencies.
- 14.7.2 **PURCHASE PRICE DETERMINATION.** If the Contract is for a single-agency and a single Order (or if no Order applies), then "purchase price" in Subparagraph 14.7.1 above means the aggregate Contract price current at the time of Contract expiration or earlier termination, including all change orders or other forms of Contract Amendment having an effect on the aggregate price through that date. In all other cases, "purchase price" above means the total price of the Order for the specific equipment, software, or services giving rise to the claim, and therefore a separate limit will apply to each Order.
- 14.7.3 **NO EFFECT ON INSURANCE.** This paragraph does not modify the required coverage limits, terms, and conditions of, or any insured's ability to claim against, any insurance that Contractor is required by the Contract to provide, and Contractor shall obtain express endorsements that it does not.
- 14.8 Information Technology Warranty**
- 14.8.1 **SPECIFIED DESIGN.** Where the Scope of Work (Section 2-A of the Solicitation) for information technology Work provides a detailed design specification or sets out specific performance requirements, Contractor warrants that the Work will provide all functionality material to the intended use stated in the Contract, provided that, the foregoing warranty does not extend to any portions of the Materials that are:
- (a) modified or altered by anyone not authorized by Contractor to do so;
 - (b) maintained in a way inconsistent to any applicable manufacturer recommendations; or
 - (c) operated in a manner not within its intended use or environment.
- 14.8.2 **COTS SOFTWARE.** With respect to Materials provided under the Contract that are commercial-off-the-shelf (COTS) software, Contractor warrants that:
- (a) to the extent possible, it will test the software before delivery using commercially available virus detection software conforming to current industry standards;
 - (b) the COTS software will, to the best of its knowledge, at the time of delivery be free of viruses, backdoors, worms, spyware, malware, and other malicious code that could hamper performance, collect unlawfully any personally identifiable information, or prevent products from performing as required by the Contract; and
 - (c) it will provide a new or clean install of any COTS software that State has reason to believe contains harmful code.
- 14.8.3 **PAYMENT HAS NO EFFECT.** The warranties in this paragraph are not affected by State's inspection, testing, or payment.
- 14.9 Specific Remedies** Unless expressly stated otherwise elsewhere in the Contract, State's remedy for breach of warranty under paragraph 14.8 includes, at State's discretion, re-performance, repair, replacement, or refund of any amounts paid by State for the nonconforming Work, plus (in every case) Contractor's payment of State's additional, documented, and reasonable



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costs to procure materials or services equivalent in function, capability, and performance at that first called for. For clarification of intent, the foregoing obligations are limited by the limitation of liability in paragraph 14.7. If none of the foregoing options can reasonably be effected, or if the use of the materials by State is made impractical by the nonconformance, then State may seek any remedy available to it under law.

15.0 Comments Welcome

Separate and apart from this solicitation, the State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments the public may have.

The public may submit comments to:

State Procurement Administrator,
State Procurement Office, 100 North 15th Avenue, Suite 201
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End of Section 3-B

End of Part 3

End of Solicitation Documents



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Part 4 of the Solicitation Documents:
Offer Forms
(Attachments)
Date: 01/24/2017

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Attachment 1 Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide Error! Reference source not found. to in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	1.	<input checked="" type="checkbox"/>						
		date	initial					
Revised Offers:	2.	<input checked="" type="checkbox"/>		3.	<input checked="" type="checkbox"/>		4.	<input checked="" type="checkbox"/>
		date #1	initial		date #1	initial		date #1
	5.	<input checked="" type="checkbox"/>		6.	<input checked="" type="checkbox"/>		7.	<input checked="" type="checkbox"/>
		date #4	initial		date #5	initial		date #6
Best and Final Offer:	8.	<input checked="" type="checkbox"/>						
	date	initial						

X

Offeror company name

Signature of person authorized to sign Offer

Initials

X

Address

X

Printed name and title

X

City | State | ZIP

X

Contact name and title

X

Federal tax identifier (EIN or SSN)

X

Contact Email Address

X

Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

- will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465;
- has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
- complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
- is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by number # at the top of this form, and which was dated date (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is:ADSP017-00007390

The effective date of the Contract is: 07/03/2017

Contract awarded 06/30/2017

Procurement Officer signature

name

Procurement Officer printed name

Offer Forms (Attachments)

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Attachment 2-A
Experience and Capacity Questionnaire

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT ANSWER ALL QUESTIONS FULLY.

EXPERIENCE AND CAPACITY QUESTIONS:

Question 1: Describe the Offeror's Experience and involvement in the industry described in this solicitation

Offeror Response:

Click here to enter your response.

Question 2: Are you fully insured and do you have the proper risk management procedures in place to reduce the chance to damage State property?

Offeror Response:

Click here to enter your response.

Question 3: Disclose involvement in any legal proceedings, lawsuits, or governmental regulatory actions, taken or pending, and any contractual demands for assurance regarding provision of similar services.

Offeror Response:

Click here to enter your response.

Question 4: Do you offer a program that will protect fuel tanks from corroding and replace the fuel tanks if they do corrode and leak?

Offeror Response:

Click here to enter your response.

Question 5: Describe in detail Offeror's ability and capacity to perform under this Statewide contract. The description shall at a minimum describe:

-Details on Offeror's ability and capacity to administer and manage multiple individual accounts

-Details on Offeror's inventory and transportation logistic ability to satisfy statewide delivery needs of multiple agencies

-Any minimum order requirements

Offeror Response:

Click here to enter your response.





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Question 6: Do you supply fuel/oil through Fuel Assistance, Citizen's Energy or Good Neighbor Programs?

Offeror Response:

[Click here to enter your response.](#)

Question 7: Include any additional information that demonstrates the experience of the Offeror and the proposed key employees for the performance of any resultant contract.

Offeror Response:

[Click here to enter your response.](#)

Question 8: Do you have a procedure in place to correct any possible gelling issues that involve winterizing agents?

Offeror Response:

[Click here to enter your response.](#)

Question 9: Provide an organizational chart, including qualifications for the key personnel who will work on this contract.

Offeror Response:

[Click here to enter your response.](#)

Question 10: Provide Offeror's most recent balance sheet and income statement or other proof of financial stability.

Offeror Response:

[Click here to enter your response.](#)

Question 11: Please describe any natural disaster plan or pandemic plan/procedure your company has in place to ensure effective delivery and execution to eligible agencies. This is especially important regarding severe weather conditions.

Offeror Response:

[Click here to enter your response.](#)



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EXPERIENCE REFERENCES:

1	Client Company/Address	Contact	Begin Date	End Date
	x	x	x	x
	Phone Number	Email Address		
	x	x		
Materials/goods/equipment provided similar to those described in Solicitation				
x				
Services performed similar to those described in Solicitation				
x				

2	Client Company/Address	Contact	Begin Date	End Date
	x	x	x	x
	Phone Number	Email Address		
	x	x		
Materials/goods/equipment provided similar to those described in Solicitation				
x				
Services performed similar to those described in Solicitation				
x				

3	Client Company/Address	Contact	Begin Date	End Date
	x	x	x	x
	Phone Number	Email Address		
	x	x		
Materials/goods/equipment provided similar to those described in Solicitation				
x				
Services performed similar to those described in Solicitation				
x				



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ANNEXES TO THIS ATTACHMENT:

None

ATTACHMENT 2-A SUPPLEMENTS:

(Insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose In Offer
1.	x	x	x	x
2.	x	x	x	x

End of Attachment 2-A





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Attachment 2-B
Organization Profile

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT ANSWER ALL QUESTIONS FULLY.

ORGANIZATION PROFILE

Firm Name	x	Year established	x
Principal address (street, city, state)	x		
Entity type:	x	Structure:	x
Branch or Division:	x	Parent:	x
Years of experience providing goods similar in type and quantity as required by this Solicitation.			x
Years of experience performing services similar in size and scope as required by this Solicitation.			x
Years the organization has conducted business in Arizona.			x
Contract Representatives to Contact			
	Name	Title	Telephone Number
1.	x	x	x
2.	x	x	x
3.	x	x	x
Licenses/Certifications			
	Description	Issuer	Number
1.			
2.			
3.			
4.			
5.			
6.			
7.			
Financial Information (attach financial statements with income/balance sheets as Supplements)			
	Rating/Issuer	Score/Rank	Date
1.			
2.			
3.			



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Capacity				
	Location	Work Performed	Number Staff	Capacity
1.				
2.				
3.				
4.				
5.				

ATTACHMENT 2-B SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose In Offer
1.	Enter or type "None"	x	x	x
2.	Enter or delete row if not needed	x	x	x
3.	Enter or delete row if not needed	x	x	x
4.	Enter or delete row if not needed	x	x	x
5.	Enter or delete row if not needed	x	x	x
6.	Enter or delete row if not needed	x	x	x
7.	Enter or delete row if not needed	x	x	x

End of Attachment 2-B





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Attachment 3-A Method Proposal (Method of Approach)

Question 1: Identify at least one of Arizona's greatest challenges in this industry and how you would address the challenge

Offeror Response:

[Click here to enter your response.](#)

Question 2: Please provide a narrative response that describes your organization's overall method of approach for providing the required products as stated in this solicitation. The response shall at a minimum include;

-Clearly state your understanding of the Scope of Work and all requirements

-Provide a description of an inter-organizational governance structure and communication process that will support a successful business relationship.

-Provide a description of how your organization tracks problem resolution responsiveness and end user satisfaction in a quantifiable manner to ensure quality customer service.

Offeror Response:

[Click here to enter your response.](#)

Question 3: Describe the process for communication with the State regarding contract administration, including but not limited to, product changes, price changes and updated vendor information and general communications.

Offeror Response:

[Click here to enter your response.](#)

Question 4: Offeror shall give a narrative to the products available as well as list any availability for services if needed and state what those services are.

Offeror Response:

[Click here to enter your response.](#)

Question 5: The Offeror shall explain their minimum warranties that are included for all their products and services.



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Offeror Response:

Click here to enter your response.

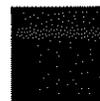
Question 6: Please include a map of your regularly scheduled delivery routes in the counties you bid for (in Exhibits A and B). Please include the map below.

ATTACHMENT 3-A SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	Enter or type "None"	x	x	x
2.	Enter or delete row if not needed	x	x	x
3.	Enter or delete row if not needed	x	x	x
4.	Enter or delete row if not needed	x	x	x
5.	Enter or delete row if not needed	x	x	x
6.	Enter or delete row if not needed	x	x	x
7.	Enter or delete row if not needed	x	x	x

End of Attachment 3-A





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Attachment 3-B Key Personnel Proposal

Answer all questions thoroughly in the spaces provided. **Complete this form in full for each one of the key personnel proposed to be involved in carrying out the Work.** Insert or attach a separate resume if desired, but any attached resumes are supplemental to this form and do not substitute for this form.

1	Name:	x	How long with company?	x years
	Current position in company:	x	How long in position?	x years
	Position for the Services:	x	How much of time will be dedicated to the Services?	x %
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
	Resume:	filename		



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2	Name:	x	How long with company?	x years
	Current position in company:	x	How long in position?	x years
	Position for the Services:	x	How much of time will be dedicated to the Services?	x %
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
	Resume:	filename		



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3	Name:	x	How long with company?	x years
	Current position in company:	x	How long in position?	x years
	Position for the Services:	x	How much of time will be dedicated to the Services?	x %
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
	Resume:	filename		





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4	Name:	<input checked="" type="checkbox"/>	How long with company?	<input type="checkbox"/> years
	Current position in company:	<input checked="" type="checkbox"/>	Current position in company:	<input checked="" type="checkbox"/>
	Position for the Services:	<input checked="" type="checkbox"/>	Position for the Services:	<input checked="" type="checkbox"/>
	What primary functions will be assigned?	<input checked="" type="checkbox"/>		
	Describe person's experience in performing services like those that are to be assigned:	<input checked="" type="checkbox"/>		
	List person's job-related training and education:	<input checked="" type="checkbox"/>		
	Resume:	filename		



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5	Name:	x	How long with company?	x years
	Current position in company:	x	Current position in company:	x
	Position for the Services:	x	Position for the Services:	x
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
Resume:	filename			





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6	Name:	<input checked="" type="checkbox"/>	How long with company?	<input type="checkbox"/> years
	Current position in company:	<input checked="" type="checkbox"/>	Current position in company:	<input checked="" type="checkbox"/>
	Position for the Services:	<input checked="" type="checkbox"/>	Position for the Services:	<input checked="" type="checkbox"/>
	What primary functions will be assigned?	<input checked="" type="checkbox"/>		
	Describe person's experience in performing services like those that are to be assigned:	<input checked="" type="checkbox"/>		
	List person's job-related training and education:	<input checked="" type="checkbox"/>		
	Resume:	filename		





Request for Proposals

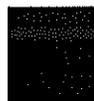
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7	Name:	x	How long with company?	x years
	Current position in company:	x	Current position in company:	x
	Position for the Services:	x	Position for the Services:	x
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
	Resume:	filename		

End of Attachment 3-B





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Attachment 3-C Proposed Subcontractors

Check "NO" if you WILL NOT subcontract any portion of the Work and will therefore be carrying out all of the Work with your own personnel.

NO, the Offeror will not subcontract any portion of the Work.

If you WILL subcontract any portion of the Work, check "YES" below and list name of persons or companies you propose to use as subcontractors.

1. Fill in the information for every significant subcontractor – indicate the type of work the subcontractor will perform under the Contract, and their approximate percentage of the total Contract work.
2. Provide copies of relevant certifications each one possesses in the Attachment Supplements section.
3. Provide description of quality assurance methods and quality control measures that you will use to ensure that Subcontractor work meets the Contract requirements.
4. State may demand additional information about proposed subcontractors as a precondition of award.

YES, the Offeror will use the Subcontractors listed below:

	Name and contact information	Small Business	Work to be performed	%
1.	Name	select		
2.	Name	select		
3.	Name	select		
4.	Name	select		
5.	Name	select		
6.	Name	select		
7.	Name	select		
8.	Name	select		
9.	Name	select		
10.	Name	select		

ATTACHMENT 3-C SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose In Offer
1.	Enter or type "None for Sub #1"	x	x	x
2.	Enter or type "None for Sub #2"	x	x	x
3.	Enter or type "None for Sub #3"	x	x	x
4.	Enter or type "None for Sub #4"	x	x	x



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	Title	Document Date	No. of pages	Purpose in Offer
5.	Enter or type "None for Sub #5"	x	x	x
6.	Enter or type "None for Sub #6"	x	x	x
7.	Enter or type "None for Sub #7"	x	x	x
8.	Enter or type "None for Sub #8"	x	x	x
9.	Enter or type "None for Sub #9"	x	x	x
10.	Enter or type "None for Sub #10"	x	x	x

End of Attachment 3-C





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Attachment 3-E
Boycott of Israel Disclosure

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recently legislation has been enacted to prohibit the state from contracting with companies currently engaged in a boycott of Israel. To ensure compliance with A.R.S. §35-393.01. This form must be completed and returned with the response to the solicitation and any supporting information to assist the State in making its determination of compliance.

As defined by A.R.S. §35-393.01:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) in compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - (b) in a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) together with other investors that are not subject to this section.
 - (b) that are held in an index fund.
5. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

All offerors must select one of the following:

_____ My company **does not** participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. §35-393.01. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.

_____ My company **does** participate in a boycott of Israel as defined by A.R.S. §35-393.01.

By submitting this response, proposer agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the State's action based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the State in defending such an action.

Company Name

Signature of Person Authorized to Sign

Address

Printed Name

City State Zip

Title

End of Attachment 3-E





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Attachment 4 State Pricing Document

Pricing (submitted through ProcureAZ): Pricing shall be submitted by the Offeror in the form of an uploaded Price List (i.e. excel spreadsheet), in ProcureAZ in accordance to the Special Instructions to Offerors.

Offeror shall indicate cost within the provided excel document titled, "Pricing Sheet Title", and upload the completed file as an attachment with their offer in ProcureAZ.

ATTACHMENT 4 SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	Enter or type "None"	x	x	x
2.	Enter or delete row if not needed	x	x	x
3.	Enter or delete row if not needed	x	x	x
4.	Enter or delete row if not needed	x	x	x
5.	Enter or delete row if not needed	x	x	x
6.	Enter or delete row if not needed	x	x	x
7.	Enter or delete row if not needed	x	x	x

End of Attachment 4





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Attachment 5-A
Confidential Information Designation

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recognizing there may be materials included in a solicitation response that are proprietary or a trade secret, a process is set out in A.A.C. R2-7-103 (copy attached) that will allow qualifying materials to be designated as confidential and excluded from disclosure. For purposes of this process the definition of "trade secret" will be the same as that set out in A.A.C. R2-7-101(52).

Complete this form return it with your Offer along with the appropriate supporting information to assist State in making its determination as to whether any of the materials submitted as part of your Offer should be designated confidential because the material is proprietary or a trade secret and therefore not subject to disclosure.

STATE WILL NOT CONSIDER ANY MATERIAL IN YOUR OFFER "CONFIDENTIAL" UNLESS DESIGNATED ON THIS FORM.

Check one of the following – if neither is checked, State will assume that as equivalent to "DOES NOT":

<input type="radio"/>	This response DOES NOT contain proprietary or trade secret information. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.
<input type="radio"/>	This response DOES contain trade secret information because it contains information that: <ol style="list-style-type: none"> 1. Is a formula, pattern, compilation, program, device, method, technique or process, AND 2. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; AND 3. Is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy.

NOTE: Failure to attach an explanation may result in a determination that the information does not meet the statutory trade secret definition. All information that does not meet the definition of trade secret as defined by A.A.C. R2-7-101(52) will become public in accordance with A.A.C. R2-7-C317. State may make its own determination on materials in accordance with A.A.C. R2-7-103.

If State agrees with Offeror's designation of trade secret or confidentiality and the determination is challenged, the undersigned hereby agrees to cooperate and support the defense of the determination with all interested parties, including legal counsel or other necessary assistance.

By submitting this response, Offeror agrees that the entire Offer, including confidential, trade secret and proprietary information may be shared with an evaluation committee and technical advisors during the evaluation process. Offeror agrees to indemnify and hold State, its agents and employees, harmless from any claims or causes of action relating to State's withholding of information based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by State in defending such an action.

X

Offeror Company Name

X

Address

X

City State Zip

Signature of Authorized Person

X

Printed Name

X

Title



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ATTACHMENT 5-A SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	Enter or type "None"	x	x	x
2.	Enter or delete row if not needed	x	x	x
3.	Enter or delete row if not needed	x	x	x
4.	Enter or delete row if not needed	x	x	x
5.	Enter or delete row if not needed	x	x	x
6.	Enter or delete row if not needed	x	x	x
7.	Enter or delete row if not needed	x	x	x

End of Attachment 5-A





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Copy of A.A.C. R2-7-103 [Confidential Information] as was current at time of Solicitation issuance

PROVIDED FOR REFERENCE ONLY

- A. *If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.*
- B. *Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.*
- C. *Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:*
- 1. The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;*
 - 2. The designated information is not confidential; or*
 - 3. Additional information is required before a final confidentiality determination can be made.*
- D. *If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.*
- E. *An agency chief procurement officer may release information designated as confidential under subsection (A) if:*
- 1. A request for review is not received by the state procurement administrator within the time period specified in the notice; or*
 - 2. The state procurement administrator, after review, makes a written determination that the designated information is not confidential.*



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Attachment 5-B
Conformance Statements

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.

READ PARAGRAPH **ERROR! REFERENCE SOURCE NOT FOUND.** OF THE INSTRUCTIONS TO OFFERORS BEFORE TAKING ANY EXCEPTIONS – TAKING EXCEPTIONS CAN BE GROUNDS FOR STATE REJECTING OR DOWN-GRADING YOUR OFFER IN EVALUATION.

**CONFORMANCE TO THE INSTRUCTIONS:
(PART 1 OF THE SOLICITATION)**

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Solicitation Summary in Section 1-A of the Solicitation Documents and the Instructions to Offerors in Section 1-B of the Solicitation Documents and the and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understands the Solicitation Summary in Section 1-A of the Solicitation Documents and the Instructions to Offerors in Section 1-B of the Solicitation Documents, and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 1**.

**CONFORMANCE TO THE TECHNICAL DOCUMENTS:
(PART 2 OF THE SOLICITATION)**

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 2**.

**CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS:
(PART 3 OF THE SOLICITATION)**

Check one of the following – if neither is checked, State will assume that as equivalent to “YES”:

- YES – Offeror acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices, in Part 3 of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understand the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices in Part 3 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 3**.





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ATTACHMENT 5-B Supplement No. 1:

Exceptions to Instructions

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 1-A: Solicitation Details		
x	x	x
x	x	x
x	x	x
Section 1-B: Instructions to Offerors		
x	x	x
x	x	x
x	x	x

Company Name

Signature of Person Authorized to Sign





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ATTACHMENT 5-B Supplement No. 2:

Exceptions to Technical and Commercial

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 2-A: Scope of Work (Technical Document)		
x	x	x
x	x	x
x	x	x
x	x	x
x	x	x
Section 2-B: Commercial Document		
x	x	x
x	x	x
x	x	x
x	x	x
x	X	x

Company Name

Signature of Person Authorized to Sign



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ATTACHMENT 5-B Supplement No. 3:

Exceptions to Contract Terms & Conditions

Article/ Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 3-A: Special Terms & Conditions		
X	X	X
X	X	X
X	X	X
X	X	X
X	X	X

Article/ Paragraph or Appendix Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 3-B: Uniform Terms & Conditions		
X	X	X
X	X	X
X	X	X

Company Name

Signature of Person Authorized to Sign

End of Attachment 5-B



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Attachment 5-D Offer Checklist

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT SUBMIT ALL ATTACHMENTS.

	DOCUMENT	SUBMITTED
1.	Attachment 1: Offer and Acceptance Form	<input type="checkbox"/> YES <input type="checkbox"/> no
2.	Attachment 2-A: Experience and Capacity Questionnaire	<input type="checkbox"/> YES <input type="checkbox"/> no
3.	Attachment 2-B: Organization Profile	<input type="checkbox"/> YES <input type="checkbox"/> no
4.	Attachment 3-A: Method Proposal	<input type="checkbox"/> YES <input type="checkbox"/> no
5.	Attachment 3-B: Key Personnel Proposal	<input type="checkbox"/> YES <input type="checkbox"/> no
6.	Attachment 3-C: Proposed Subcontractors	<input type="checkbox"/> YES <input type="checkbox"/> no
7.	Attachment 3-D: Performance Guarantee	N/A
8.	Attachment 3-E: Israel Boycott Disclosure	<input type="checkbox"/> YES <input type="checkbox"/> no
9.	Attachment 4: Pricing Sheet	<input type="checkbox"/> YES <input type="checkbox"/> no
10.	Attachment 5-A: Confidential Information Designation	<input type="checkbox"/> YES <input type="checkbox"/> no
11.	Attachment 5-B: Conformance Statements	<input type="checkbox"/> YES <input type="checkbox"/> no
12.	Attachment 5-C: Insurance and Bonding Evidence	N/A
13.	Attachment 5-C: Offer Checklist	<input type="checkbox"/> YES <input type="checkbox"/> no
14.	Attachment 5-E: Attachments and Exhibits	<input type="checkbox"/> YES <input type="checkbox"/> no

End of Attachment 5-D

End of Part 4



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Attachment 5-E

Attachments and Exhibits

EXHIBIT A DELIVERY PRICES/FUELS AND COUNTY LOCATIONS

EXHIBIT B RACK RATE PRICING SHEET



**STATE OF ARIZONA
PURCHASE ORDER TERMS AND CONDITIONS**

1. **Modification.** No modification of the purchase order shall bind Buyer unless Buyer agrees to the modification in writing.
2. **Packing and Shipping.** Seller shall be responsible for industry standard packing which conform to requirements of carriers' tariffs and ICC regulations. Containers must be clearly marked as to lot number, destination address and purchase order number.
3. **Title and Risk of Loss.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually received the goods at the point of delivery.
4. **Invoice and Payment.** A separate invoice shall be issued for each shipment. No invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and correct invoice. Payment due dates, including discount periods, will be computed from date of receipt of goods or date of receipt of correct invoice (whichever is later) to date Buyer's warrant is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment shall be subject to the provisions of Title 35 of Arizona Revised Statutes. The Buyer's obligation is payable solely from funds appropriated for the purpose of acquiring the goods or services referred to in this Purchase Order.
5. **Inspection.** All goods are subject to final inspection and acceptance by Buyer. Material failing to meet the requirements of this Purchase Order will be held at Seller's risk and may be returned to Seller. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of the Seller.
6. **No Replacement of Defective Tender.** Every tender of goods must fully comply with all provisions of Purchase Order as the time of delivery, quantity, quality and the like. If a tender is made which does not fully conform, it shall constitute a breach and Seller shall not have the right to substitute a conforming tender.
7. **Force Majeure.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or conditions of the Purchase Order are delayed or prevented by any cause not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, that party is unable to prevent.
8. **Gratuities.** The Buyer may, by written notice to the Seller, cancel this Purchase Order if it is found by Buyer that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the State of Arizona with a view toward securing an order or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with the respect to the performing, of such order. In the event this Purchase Order is cancelled by Buyer pursuant to this provision, Buyer shall be entitled in addition to any other rights and remedies to recover or withhold from the Seller the amount of the gratuity.
9. **Warranties.** Seller warrants that all goods delivered under this Purchase Order will conform to the requirements of this Purchase Order (including all applicable descriptions, specifications, drawings and samples) will be free from defects in material and workmanship and will be free from defects in design and fill for the intended purposes. Any inspection or acceptance of the goods by Buyer shall not alter or affect the obligations of Seller or the right of Buyer under the foregoing warranties.
10. **Assignment – Delegation.** No right or interest in this Purchase Order shall be assigned by Seller without the written permission of Buyer, and no delegation of any duty of Seller shall be made without permission of Buyer.
11. **Interpretation – Parole Evidence.** This Purchase Order is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their 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 this Purchase Order. Acceptance or acquiescence in a course of performance rendered under this Purchase Order shall not be relevant to determine the meaning of this Purchase Order even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in the Purchase Order the definition contained in the Code is to control.
12. **Non-Discrimination.** Seller agrees not to discriminate against any employee or applicant for employment in violation of the terms of Federal Executive Order 11246, State Executive Order No. 2009-09 and A.R.S. Section 41-1461 et seq.
13. **Indemnity.** Seller agrees to indemnify and save the Buyer harmless from any loss, damage or expense whatsoever resulting to the Buyer from any and all claims and demands on account of infringement or alleged infringement of any patent in connection with the manufacture or use of any product included in this Purchase Order and upon written request Seller will defend at its own cost the expense any legal action or suit against the Buyer involving any such alleged patent infringement, and will pay and satisfy any and all judgments or decrees rendered in any against such legal actions or suits. Seller will indemnify Buyer against all claims for damages to person or property resulting from defects in materials or workmanship.
14. **Liens.** All goods delivered and labor performed under this Purchase Order shall be free of all liens, and if Buyer requests, a formal release of all liens will be delivered to Buyer.
15. **Contract Number.** If an Arizona contract number appears on the face of this Purchase Order, the terms of that contract are incorporated herein by this reference.
16. **Taxes.** The State of Arizona is exempt from Federal Excise Tax.
17. **Conflict of Interest.** Pursuant of A.R.S. Section 38-511 this Purchase Order is subject to cancellation by the Buyer if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state is, at any time while the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
18. **Remedies and Applicable Law.** This Purchase Order shall be governed by, and Buyer and Seller shall have all remedies afforded each by, the Uniform Commercial Code as adopted in the State of Arizona except as otherwise provided in this Purchase Order or in statutes pertaining specifically to the State. This Purchase Order shall be governed by the law of the State of Arizona, and suits pertaining to this Purchase Order may be brought only in the courts of the State of Arizona.
19. **Arbitration.** The parties must use arbitration as required by A.R.S. Section 12-1518.

EXHIBIT 1

Indemnification Clause

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, and any jurisdiction or agency issuing permits for any work included in the project, and their respective directors, officers, officials, agents and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, costs, losses, or expenses, (including reasonable attorney's fees), (hereinafter collectively referred to as "Claims") arising out of actual or alleged bodily injury or personal injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of Contractor's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all Claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. This indemnification will survive the termination of the above listed contract with the Contractor.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

Insurance Requirements

Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

Minimum Scope and Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability (CGL) – Occurrence Form**

EXHIBIT 1

Policy shall include bodily injury, property damage, and broad form contractual liability coverage. If the contractor is installing tanks and equipment, their policies shall include a per project aggregate endorsement.

- General Aggregate \$5,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$50,000
- Each Occurrence \$2,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- Combined Single Limit (CSL) \$5,000,000

When hazardous materials are transported, the automobile liability policy shall include the following endorsements:

- CA 99 48 Pollution Liability-broadened coverage for covered autos
- MCS-90 (Motor Carrier Act) endorsements

a. The policy shall include Automobile Pollution Liability specific to the transportation of hazardous materials.

b. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

EXHIBIT 1

c. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Workers' Compensation and Employers' Liability

- Workers' CompensationS Statutory
- Employers' Liability
- o Each Accident \$1,000,000
- o Disease – Each Employee \$1,000,000
- o Disease – Policy Limit \$1,000,000

a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

4. Contractors Pollution Liability

For losses caused by pollution conditions that arise from the operations of the Contractor as described in the Scope of Services section of this Contract.

- Per Occurrence \$2,000,000
- General Aggregate \$5,000,000

a. Coverage must be identified specific to the operations as described in the Scope of Services in this Contract.

b. Must include coverage for pollution losses arising out of completed operations.

c. Pollution coverage must apply to all locations utilized for the acceptance, storage, or disposal of any hazardous materials.

d. The policy is to be written on an "occurrence" basis with no sunset clause. In the event that the Pollution 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.

EXHIBIT 1

That either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of ten (10) years beginning at the time this Contract is terminated.

- e. Pollution coverage must apply to all phases of the work described in the Scope of Services in this Contract.
- f. The policy shall include coverage for bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death and medical monitoring costs.
- g. The policy shall include coverage for property damage, and physical damage to, or destruction of, tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed including diminution in value.
- h. For losses that arise from the facility, coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants, into or upon land, atmosphere, or any watercourse or body of water which results in cleanup costs, bodily injury or property damage.
- i. The policy shall include coverage for environmental damage including physical damage to soil, surface water, ground water, plant, or animal life, caused by pollution conditions and giving rise to cleanup costs.
- j. The policy shall include defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- k. The policy shall include coverage for asbestos and lead, mold, with no exclusions.
- l. The policy shall include Non-Owned Disposal Site coverage.
- m. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- n. The policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by the Contractor.

Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

EXHIBIT 1

The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation

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 thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona 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 the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

EXHIBIT 1

Subcontractors

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

Approval and Modifications

The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

Exceptions

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
SYNERGY PETROLEUM LLC

[SYNERGY PROPOSAL]

See following pages.



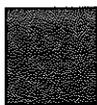
Request for Proposals
 Solicitation No.
ADSP017-00007390
 Description:
Bulk Fuel and Bulk Fuel Propane

Arizona Department of Administration
State Procurement Office
 100 N 15th Ave., Suite 201
 Phoenix, AZ 85007

Part 4 of the Solicitation Documents:
Offer Forms
 (Attachments)
 Date: 01/24/2017

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 ATTACHMENT 2-A ... EXPERIENCE AND CAPACITY QUESTIONNAIRE 3
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Attachment 1
Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide Error! Reference source not found. to in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	1.	07/11/17	<i>MLP</i>						
	date		initial						
Revised Offers:	2.	X		3.	X		4.	X	
	date #1		initial	date #1		initial	date #1		initial
	5.	X		6.	X		7.	X	
	date #4		initial	date #5		initial	date #6		initial
Best and Final Offer:	8.	X							
date		initial							

Senergy Petroleum LLC

Offeror company name
622 S 56th Ave
Address
Phoenix, AZ 85043
City | State | ZIP
46-2658218
Federal tax identifier (EIN or SSN)

MLP
Signature of person authorized to sign Offer
Initials
Mark Panzica, General Sales Manager
Printed name and title
Mark Panzica, General Sales Manager
Contact name and title
mpanzica@gosenergy.com 480-703-0410
Contact Email Address Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

- will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41-1461 through 1465;
- has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
- complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
- is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by number # at the top of this form, and which was dated date (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: ADSP017-00007390 The effective date of the Contract is: 07/03/2017 Contract awarded 06/30/2017

Procurement Officer signature _____ name _____
Procurement Officer printed name

Offer Forms (Attachments)

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Date: 01/24/2017
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Attachment 2-A
Experience and Capacity Questionnaire

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT ANSWER ALL QUESTIONS FULLY.

EXPERIENCE AND CAPACITY QUESTIONS:

Question 1: Describe the Offeror's Experience and involvement in the industry described in this solicitation

Offeror Response:

Senergy Petroleum, formed in 2013, continues a 76-year history (Brown Evans Distributing and Union Distributing Co.) of providing quality fuels, lubricants, engineering services, and petroleum logistics solutions that have developed coveted partnerships with thousands of governmental, commercial, industrial, and automotive customers across Arizona and throughout the Southwest. We currently service the state vehicle contract as well as other municipalities and agencies.

Question 2: Are you fully insured and do you have the proper risk management procedures in place to reduce the chance to damage State property?

Offeror Response:

Yes. Senergy meets the insurance requirements of the state. Our safety and risk management policies are in place to provide safe and efficient deliveries to the state.

Question 3: Disclose involvement in any legal proceedings, lawsuits, or governmental regulatory actions, taken or pending, and any contractual demands for assurance regarding provision of similar services.

Offeror Response:

Senergy Petroleum has not been involved in any legal proceedings, lawsuits, or governmental regulations.

Question 4: Do you offer a program that will protect fuel tanks from corroding and replace the fuel tanks if they do corrode and leak?

Offeror Response:

Yes. Senergy has a program that will determine root cause of tank cleanliness. This includes, but not limited to, fuel testing, cleaning tanks, SP001 above ground tank certification, and other services to proactively reduce contamination and corroding tanks. In addition, we offer a full equipment sales, rental, and services. Senergy will be able to offer solutions to meet the needs of the state.

Question 5: Describe in detail Offeror's ability and capacity to perform under this Statewide contract. The description shall at a minimum describe:

-Details on Offeror's ability and capacity to administer and manage multiple individual accounts



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-Details on Offeror's inventory and transportation logistic ability to satisfy statewide delivery needs of multiple agencies

-Any minimum order requirements

Offeror Response:

Senergy currently deliveries and manage over 3,000 active accounts per month. Many of these customers have multiple locations throughout the state and vary in account requirements. We will deploy the necessary resources to work with each agency to fulfill their requirements.

Senergy has the largest distributor owned fleet of trucks with the ability to deliver all quantities of fuels, including Tank wagon and transport sizes, to all four corners of the state.

Although we do not have a minimum order requirement for this RFP, we will work closely with each agency to maximize inventory levels and delivery efficiencies.

Question 6: Do you supply fuel/oil through Fuel Assistance, Citizen's Energy or Good Neighbor Programs?

Offeror Response:

No. We currently do not participate in any related programs.

Question 7: Include any additional information that demonstrates the experience of the Offeror and the proposed key employees for the performance of any resultant contract.

Offeror Response:

For more than seven decades, Senergy's professionals have been providing insightful expertise and innovative turnkey reliability solutions that streamline operations, increase uptime, maximize equipment life, and optimize total operating costs-on time, every time.

For agencies with critical operations demanding the highest quality products, latest technology, 24/7 uninterrupted supply, and extraordinary customer attention, Senergy Petroleum is the pre-eminent single-source solutions provider of choice.

Senergy proudly remains privately held and locally owned. With offices, bulk plants, and regional supply terminals throughout the Southwest, Senergy serves the Arizona markets with one of the largest company owned and operated fleets in the region.

Question 8: Do you have a procedure in place to correct any possible gelling issues that involve winterizing agents?

Offeror Response:

Yes. Senergy can assist in finding the root cause of gelling issues. Depending on the cause, several solutions can be deployed. For example, if a storage tank of fuel (in a cold place) has gelled to the point it will not dispense. Depending on tank location (above or underground?), the pump location (in tank? Outside?), and whether there is a filter on the system, one solution may be the use of heaters. For these to be used effectively, the pump and filter (and tank contents) need to be accessible and able to be opened to take additive – the same



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ones that are used in vehicles. In addition, there are several aftermarket additives that can treat gelled diesel in a vehicle or tank.

Question 9: Provide an organizational chart, including qualifications for the key personnel who will work on this contract.

Offeror Response:

See attachment "SP ORG CHART – June 2017.pdf" ***Confidential***

Question 10: Provide Offeror's most recent balance sheet and income statement or other proof of financial stability.

Offeror Response:

See attachment "Senergy Audited FS 2015.pdf" and "Senergy Audited FS 2016.pdf", but documents are ***Confidential***

Question 11: Please describe any natural disaster plan or pandemic plan/procedure your company has in place to ensure effective delivery and execution to eligible agencies. This is especially important regarding severe weather conditions.

Offeror Response:

Senergy has procedures in place to minimize the interruptions in supply or service. This plan would include the combination of utilizing supply from our bulk plants in Phoenix, Mesa and Tucson and/or different racks outside the impacted area delivered on our trucks or use of common carriers. In addition, Senergy owns more than a dozen commercial fueling locations throughout the state and those facilities could be utilized for product storage. Fuels cards could also be supplied for those agencies impacted to use our commercial sites or retail fuel stations. Another solution could be to acquire product from other states.

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ADSP017-00007390Description:
Bulk Fuel and Bulk Fuel PropaneArizona Department of Administration
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Phoenix, AZ 85007**EXPERIENCE REFERENCES:**

1	Client Company/Address	Contact	Begin Date	End Date
	City of Phoenix	Cynthia Thompson	01/01/2013	Current
	Phone Number	Email Address		
	520) 837-4134	Cynthia.Thompson@tucsonaz.gov		
Materials/goods/equipment provided similar to those described in Solicitation				
We provide the City of Tucson under their lubricants and fuels contract. Our products meet many of the same specifications that outlined in this				
Services performed similar to those described in Solicitation				
We provide detail reporting on yearly sales by agency, pricing on lubricants with the same methodology.				

2	Client Company/Address	Contact	Begin Date	End Date
	City of Phoenix	Larry Jue	1/1/2009	Current
	Phone Number	Email Address		
	(602) 262-7181	Larry.jue@phoenix.gov		
Materials/goods/equipment provided similar to those described in Solicitation				
We provide a full catalog of lubricants and bulk fuel delivers to the city. This includes bulk and package deliveries.				
Services performed similar to those described in Solicitation				
Deliveries of various package size to multiple city locations. We provide detailed billing specific to the cities requirements.				



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3	Client Company/Address	Contact	Begin Date	End Date
	Sunstate Equipment Co	Tim Meenk	5/10/1979	current
	Phone Number	Email Address		
	(602) 683-2228	tmeenk@sunstateequip.com		
Materials/goods/equipment provided similar to those described in Solicitation				
Senergy provides lubricant products, services, and equipment specific to the many different equipment specifications.				
Services performed similar to those described in Solicitation				
We currently managing and executing deliveries to over 60 locations across the states. This includes order and delivery fulfillment as well as detailed billing for each location.				

ANNEXES TO THIS ATTACHMENT:

None

ATTACHMENT 2-A SUPPLEMENTS:

(Insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	SP ORG CHART – June 2017.pdf	3/9/17	1	In response to Question 9
2.	Senergy Audited FS 2015.pdf	12/14/16	13	In response to Question 10
3.	Senergy Audited FS 2016.pdf	3/9/17	2	In response to Question 10

End of Attachment 2-A





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**Attachment 2-B
 Organization Profile**

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT ANSWER ALL QUESTIONS FULLY.

ORGANIZATION PROFILE

Firm Name	Senenergy Petroleum LLC		Year established	2013
Principal address (street, city, state)	622 S. 56 th Ave., Phoenix, AZ 85043			
Entity type:	Limited Liability Company	Structure:	Partnership	
Branch or Division:		Parent:		
Years of experience providing goods similar in type and quantity as required by this Solicitation.			30	
Years of experience performing services similar in size and scope as required by this Solicitation.			30	
Years the organization has conducted business in Arizona.			4	
Contract Representatives to Contact				
	Name	Title	Telephone Number	E-Mail Address
1.	Mark Panzica	Sales Manager	480-962-6111	mpanzica@gosenergy.com
2.	Jim Kaskie	Contract Specialist	602-358-2411	jkaskie@gosenergy.com
3.	Russ Seideman	Lubrication Engineer	602-291-0647	Rseideman@gosenergy.com
Licenses/Certifications				
	Description	Issuer	Number	Expiration
1.	none			
2.				
3.				
4.				
5.				
6.				
7.				



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Financial Information (attach financial statements with income/balance sheets as Supplements)

	Rating/Issuer	Score/Rank	Date
1.	none		
2.			
3.			

Capacity

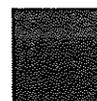
	Location	Work Performed	Number Staff	Capacity
1.	Phoenix	Fuel and Lubes	65	Primary delivery to Maricopa, Gila, Yuma, and Pinal counties
2.	Mesa	Fuel and Lubes	30	Primary delivery to Maricopa, Gila, Yuma, and Pinal counties
3.	Tucson	Fuel and Lubes	26	Primary delivery to Pima, Graham, Greenlee, Santa Cruz, and Cochise
4.	Yuma	Fuel and Lubes	3	Primary delivery in Yuma county
5.				

ATTACHMENT 2-B SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose In Offer
1.	None	x	x	x
2.	Enter or delete row if not needed	x	x	x
3.	Enter or delete row if not needed	x	x	x
4.	Enter or delete row if not needed	x	x	x
5.	Enter or delete row if not needed	x	x	x
6.	Enter or delete row if not needed	x	x	x
7.	Enter or delete row if not needed	x	x	x

End of Attachment 2-B





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Attachment 3-A Method Proposal (Method of Approach)

Question 1: Identify at least one of Arizona's greatest challenges in this industry and how you would address the challenge

Offeror Response:

Many of the agencies in this RFP will be faced with continued challenges from original equipment manufacturers (OEM) and regulatory compliances that will require a product to meet these changes. Senergy has the internal expertise and knowledge to work with each location to understand the impact of these changes and the impact on their equipment. We can make the necessary recommendations and assist in any product transition

Question 2: Please provide a narrative response that describes your organization's overall method of approach for providing the required products as stated in this solicitation. The response shall at a minimum include;

- Clearly state your understanding of the Scope of Work and all requirements
- Provide a description of an inter-organizational governance structure and communication process that will support a successful business relationship.
- Provide a description of how your organization tracks problem resolution responsiveness and end user satisfaction in a quantifiable manner to ensure quality customer service.

Offeror Response:

Senergy Petroleum understands the needs of the State of Arizona and its agencies to have a full fuel distributor with the ability to supply and provide deliveries statewide at a competitive offering.

Senergy Petroleum currently has five bulk plant/warehouses strategically located throughout the state. Senergy has the largest privately held fleet of vehicles specifically configured to meet the demands of the state. We will work with each agency location to determine the optimized delivery product, package, and quantity.

Our organization structure has clearly defined roles within our organization and works diligently to fulfill our contract obligations. Ownership by everyone involved provides accuracy on order placement, delivery, and billing.

Senergy performs a root cause analysis of problems to ensure end-user satisfaction. We interview all involved and document the findings in a corrective action form. This information is filled at Senergy Petroleum and a copy is sent to agency. Both internal and external communication is critical to ensure the corrective action produces the desired outcome.

Question 3: Describe the process for communication with the State regarding contract administration, including but not limited to, product changes, price changes and updated vendor information and general communications.



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Offeror Response:

Senergy Petroleum is very familiar with the ProcureAZ portal. We will utilize the website as the main form of communication between our company and the state. We will also work with the state procurement office to communicate any changes to products or pricing.

Question 4: Offeror shall give a narrative to the products available as well as list any availability for services if needed and state what those services are.

Offeror Response:

Senergy works with many of the key fuel suppliers at both the Phoenix and Tucson racks. These relationships support the ULSD, ULSD Red Dyed, CBG unleaded, conventional unleaded, and winter blend diesel fuels required in the scope of work. We own and operate our own fleet of delivery vehicles to ensure the safety and reliability for each delivery. This also allows us the ability to perform emergency deliveries needed by the state. In addition to those products list in the scope, Senergy offers a full fluid solution. This includes the ability to determine a variety of fuel related issues each agency may occur during the timeline of this contract. In addition, we provide our own internal technical resources for participating agencies to ensure prompt response.

Question 5: The Offeror shall explain their minimum warranties that are included for all their products and services.

Offeror Response:

Senergy ensures that all products we are bidding in the RFP meet/exceed ASTM standards. We will work closely with any agency and the products they purchase should any issues arise.

Question 6: Please include a map of your regularly scheduled delivery routes in the counties you bid for (in Exhibits A and B). Please include the map below.

ATTACHMENT 3-A SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	State Senergy Delivery Map.pdf	7/7/17	1	In response to question 6, we provided a map to illustrate the delivery routes for the counties we have provided a bid.
2.	Enter or delete row if not needed	x	x	x
3.	Enter or delete row if not needed	x	x	x
4.	Enter or delete row if not needed	x	x	x
5.	Enter or delete row if not needed	x	x	x

End of Attachment 3-A



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Attachment 3-B Key Personnel Proposal

Answer all questions thoroughly in the spaces provided. **Complete this form in full for each one of the key personnel proposed to be involved in carrying out the Work.** Insert or attach a separate resume if desired, but any attached resumes are supplemental to this form and do not substitute for this form.

1	Name:	Mark Panzica	How long with company?	18 years
	Current position in company:	General Sales Manager	General Sales Manager	10 years
	Position for the Services:	Contract Administration	Contract Administration	20 %
	What primary functions will be assigned?	Will oversee account maintenance to include pricing, supplier relationships, renewals, and the main point of contact.		
	Describe person's experience in performing services like those that are to be assigned:	Have managed several customers with similar size and scope. This would include pricing management, new location setup, product and application questions, and ongoing renewal and bid submissions.		
	List person's job-related training and education:	18 years of field experience with lubricant and fuels relating to government agencies. Yearly training and education on product and equipment changes as well as new product application		
	Resume:	None		



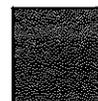
Request for Proposals

Solicitation No.
ADSPO17-00007390

Description:
Bulk Fuel and Bulk Fuel Propane

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State Procurement Office
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2	Name:	Jim Kaskie	How long with company?	15 years
	Current position in company:	Contract Specialist	How long in position?	15 years
	Position for the Services:	Daily contact	How much of time will be dedicated to the Services?	25 %
	What primary functions will be assigned?	Jim will be the primary contact for all contract related items to include but not limited to order fulfillment.		
	Describe person's experience in performing services like those that are to be assigned:	Jim's primary responsibility is to maintain and administer our contract business. Jim has many years of experience managing contract business in all sizes and scope.		
	List person's job-related training and education:	20+ years of experience servicing multi-location contract customers.		
	Resume:	None		

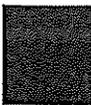




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3	Name:	Russ Seideman	How long with company?	10 years
	Current position in company:	Lubrication Engineer	How long in position?	10 years
	Position for the Services:	Technical Resource	How much of time will be dedicated to the Services?	10 %
	What primary functions will be assigned?	Russ will be responsible to answer any fuel product and application questions. He will also be providing product recommendations where needed.		
	Describe person's experience in performing services like those that are to be assigned:	Russ has served as our lead technical resource for all Senergy fuel and lubricant brands. He has worked with many contractual customers to meet their growing needs. Russ is also responsible for creating and executing customer directed training needs.		
	List person's job-related training and education:	Russ is a Certified Lubrication Specialists (CLS) which an industry designation to those select individuals that have passed certification and remain current with ongoing training.		
	Resume:	None		





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4	Name:	Jon Hobson	How long with company?	7 years
	Current position in company:	Customer Service Supervisor	Current position in company:	6 Years
	Position for the Services:	Daily Point of Contact	Position for the Services:	25%
	What primary functions will be assigned?	Jon will be the primary contact for all order entry for each agency. He will also be a point of contact for any billing related questions.		
	Describe person's experience in performing services like those that are to be assigned:	Jon's primary responsibility is to oversee any customer service related items for our contract business. Jon has many years of experience managing contract business in all sizes and scope from his previous employment.		
	List person's job-related training and education:	12+ years of experience servicing multi-location contract customers.		
	Resume:	None		





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5	Name:	Josh Kinsey	How long with company?	12 years
	Current position in company:	Fuel Supply	Current position in company:	12 years
	Position for the Services:	Fuel Supply	Position for the Services:	15%
	What primary functions will be assigned?	Josh will be the lead fuel procurement representative for this contract. He will work closely with Mark Panzcia and Jim Kaskie.		
	Describe person's experience in performing services like those that are to be assigned:	Josh's primary responsibility is to oversee all fuel procurement for our contract business. Josh has many years of experience working with key suppliers to fulfill our demand.		
	List person's job-related training and education:	11+ years of experience in fuel supply. Josh participates in many industry associations.		
	Resume:	None		

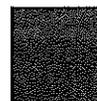




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6	Name:	None	How long with company?	x years
	Current position in company:	x	Current position in company:	x
	Position for the Services:	x	Position for the Services:	x
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
	Resume:	filename		



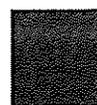


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7	Name:	None	How long with company?	x years
	Current position in company:	x	Current position in company:	x
	Position for the Services:	x	Position for the Services:	x
	What primary functions will be assigned?	x		
	Describe person's experience in performing services like those that are to be assigned:	x		
	List person's job-related training and education:	x		
	Resume:	filename		

End of Attachment 3-B





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**Attachment 3-C
 Proposed Subcontractors**

Check "NO" if you WILL NOT subcontract any portion of the Work and will therefore be carrying out all of the Work with your own personnel.

NO, the Offeror will not subcontract any portion of the Work.

If you WILL subcontract any portion of the Work, check "YES" below and list name of persons or companies you propose to use as subcontractors.

1. Fill in the information for every significant subcontractor – Indicate the type of work the subcontractor will perform under the Contract, and their approximate percentage of the total Contract work.
2. Provide copies of relevant certifications each one possesses in the Attachment Supplements section.
3. Provide description of quality assurance methods and quality control measures that you will use to ensure that Subcontractor work meets the Contract requirements.
4. State may demand additional information about proposed subcontractors as a precondition of award.

YES, the Offeror will use the Subcontractors listed below:

	Name and contact information	Small Business	Work to be performed	%
1.	None	select		
2.	None	select		
3.	None	select		
4.	None	select		
5.	None	select		
6.	None	select		
7.	None	select		
8.	None	select		
9.	None	select		
10.	None	select		

ATTACHMENT 3-C SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	None	x	x	x
2.	None	x	x	x
3.	None	x	x	x
4.	None	x	x	x



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	Title	Document Date	No. of pages	Purpose in Offer
5.	None	x	x	x
6.	None	x	x	x
7.	None	x	x	x
8.	None	x	x	x
9.	None	x	x	x
10.	None	x	x	x

End of Attachment 3-C



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**Attachment 4
 State Pricing Document**

Pricing (submitted through ProcureAZ): Pricing shall be submitted by the Offeror in the form of an uploaded Price List (i.e. excel spreadsheet), in ProcureAZ in accordance to the Special Instructions to Offerors.

Offeror shall indicate cost within the provided excel document titled, "Pricing Sheet Title", and upload the completed file as an attachment with their offer in ProcureAZ.

ATTACHMENT 4 SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	ADSPO17-00007390 part 1-C County Pricing Sheet (Exhibit A) Senergy Petroleum.xlsx	7/6/17	1	County pricing worksheet
2.	ADSPO17-00007390 Part 1-C Rack Rate Price Sheet (Exhibit B) revised Senergy Petroleum.xlsx	7/6/17	1	To identify the counties Senergy will be providing a bid
3.	None	X	x	x
4.	None	x	x	x
5.	None	x	x	x
6.	None	x	x	x
7.	None	x	x	x

End of Attachment 4





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**Attachment 5-A
 Confidential Information Designation**

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recognizing there may be materials included in a solicitation response that are proprietary or a trade secret, a process is set out in A.A.C. R2-7-103 (copy attached) that will allow qualifying materials to be designated as confidential and excluded from disclosure. For purposes of this process the definition of "trade secret" will be the same as that set out in A.A.C. R2-7-101(52).

Complete this form return it with your Offer along with the appropriate supporting information to assist State in making its determination as to whether any of the materials submitted as part of your Offer should be designated confidential because the material is proprietary or a trade secret and therefore not subject to disclosure.

STATE WILL NOT CONSIDER ANY MATERIAL IN YOUR OFFER "CONFIDENTIAL" UNLESS DESIGNATED ON THIS FORM.

Check one of the following – if neither is checked, State will assume that as equivalent to "DOES NOT":

<input type="radio"/>	This response DOES NOT contain proprietary or trade secret information. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.
<input checked="" type="radio"/>	This response DOES contain trade secret information because it contains information that: <ol style="list-style-type: none"> 1. Is a formula, pattern, compilation, program, device, method, technique or process, AND 2. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; AND 3. Is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy.

NOTE: Failure to attach an explanation may result in a determination that the information does not meet the statutory trade secret definition. All information that does not meet the definition of trade secret as defined by A.A.C. R2-7-101(52) will become public in accordance with A.A.C. R2-7-C317. State may make its own determination on materials in accordance with A.A.C. R2-7-103.

If State agrees with Offeror's designation of trade secret or confidentiality and the determination is challenged, the undersigned hereby agrees to cooperate and support the defense of the determination with all interested parties, including legal counsel or other necessary assistance.

By submitting this response, Offeror agrees that the entire Offer, including confidential, trade secret and proprietary information may be shared with an evaluation committee and technical advisors during the evaluation process. Offeror agrees to indemnify and hold State, its agents and employees, harmless from any claims or causes of action relating to State's withholding of information based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by State in defending such an action.

Senergy Petroleum LLC

Offeror Company Name
 622 S. 56th Ave.
 Address
 Phoenix AZ 85043
 City State Zip

Signature of Authorized Person
 Mark Panzica
 Printed Name
 General Sales Manager
 Title



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ATTACHMENT 5-A SUPPLEMENTS:

(Offeror to insert as required and list here or type "None" on first line)

	Title	Document Date	No. of pages	Purpose in Offer
1.	Attachment 5 Confidential Response.pdf	3/9/17	1	To describe the documents we marked confidential

End of Attachment 5-A



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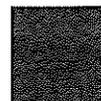
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*Copy of A.A.C. R2-7-103 [Confidential Information]
as was current at time of Solicitation issuance*

PROVIDED FOR REFERENCE ONLY

- A. *If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.*
- B. *Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.*
- C. *Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:*
 - 1. *The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;*
 - 2. *The designated information is not confidential; or*
 - 3. *Additional information is required before a final confidentiality determination can be made.*
- D. *If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.*
- E. *An agency chief procurement officer may release information designated as confidential under subsection (A) if:*
 - 1. *A request for review is not received by the state procurement administrator within the time period specified in the notice; or*
 - 2. *The state procurement administrator, after review, makes a written determination that the designated information is not confidential.*





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Attachment 5-B Conformance Statements

STATE WILL NOT CONSIDER ANY EXCEPTIONS UNLESS DESIGNATED ON THIS FORM.

READ PARAGRAPH ERROR! REFERENCE SOURCE NOT FOUND. OF THE INSTRUCTIONS TO OFFERORS BEFORE TAKING ANY EXCEPTIONS – TAKING EXCEPTIONS CAN BE GROUNDS FOR STATE REJECTING OR DOWN-GRADING YOUR OFFER IN EVALUATION.

CONFORMANCE TO THE INSTRUCTIONS: (PART 1 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to "YES":

- YES – Offeror acknowledges that it has read and understands the Solicitation Summary in Section 1-A of the Solicitation Documents and the Instructions to Offerors in Section 1-B of the Solicitation Documents and the and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understands the Solicitation Summary in Section 1-A of the Solicitation Documents and the Instructions to Offerors in Section 1-B of the Solicitation Documents, and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 1**.

CONFORMANCE TO THE TECHNICAL DOCUMENTS: (PART 2 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to "YES":

- YES – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understands the Scope Document and the Pricing Document in Part 2 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 2**.

CONFORMANCE TO THE CONTRACT TERMS AND CONDITIONS: (PART 3 OF THE SOLICITATION)

Check one of the following – if neither is checked, State will assume that as equivalent to "YES":

- YES – Offeror acknowledges that it has read and understands the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices, in Part 3 of the Solicitation Documents and attests that its Offer complies with both.
- NO – Offeror acknowledges that it has read and understand the Special Terms and Conditions and the Uniform Terms and Conditions, along with their respective Exhibits and Appendices in Part 3 of the Solicitation Documents and attests that its Offer complies with both EXCEPT FOR the exceptions listed in **Attachment 5-B Supplement 3**.



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**ATTACHMENT 5-B Supplement No. 1:
 Exceptions to Instructions**

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 1-A: Solicitation Details		
None	None	None
x	x	x
x	x	x
Section 1-B: Instructions to Offerors		
None	None	None
x	x	x
x	x	x

Senergy Petroleum LLC

Company Name

Signature of Person Authorized to Sign



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*Copy of A.A.C. R2-7-103 [Confidential Information]
as was current at time of Solicitation issuance*

PROVIDED FOR REFERENCE ONLY

- A. *If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.*
- B. *Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.*
- C. *Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:*
- 1. The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;*
 - 2. The designated information is not confidential; or*
 - 3. Additional information is required before a final confidentiality determination can be made.*
- D. *If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.*
- E. *An agency chief procurement officer may release information designated as confidential under subsection (A) if:*
- 1. A request for review is not received by the state procurement administrator within the time period specified in the notice; or*
 - 2. The state procurement administrator, after review, makes a written determination that the designated information is not confidential.*



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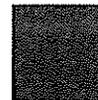
**ATTACHMENT 5-B Supplement No. 2:
 Exceptions to Technical and Commercial**

Article / Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 2-A: Scope of Work (Technical Document)		
None	None	None
x	x	x
x	x	x
x	x	x
x	x	x
Section 2-B: Commercial Document		
None	None	None
x	x	x
x	x	x
x	x	x
x	X	x

Senergy Petroleum LLC

Company Name

Signature of Person Authorized to Sign





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**ATTACHMENT 5-B Supplement No. 3:
 Exceptions to Contract Terms & Conditions**

Article/ Paragraph or Exhibit Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 3-A: Special Terms & Conditions		
None	None	None
x	x	x
x	x	x
x	x	x
x	x	x

Article/ Paragraph or Appendix Reference	Proposed Changes / Alternate Language	Rationale for Proposed Change
Section 3-B: Uniform Terms & Conditions		
None	None	None
x	x	x
x	x	x

Senergy Petroleum LLC

Company Name

Signature of Person Authorized to Sign

End of Attachment 5-B



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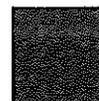
**Attachment 5-D
 Offer Checklist**

STATE MAY DETERMINE YOUR PROPOSAL IS NON-RESPONSIVE IF YOU DO NOT SUBMIT ALL ATTACHMENTS.

	DOCUMENT	SUBMITTED
1.	Attachment 1: Offer and Acceptance Form	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
2.	Attachment 2-A: Experience and Capacity Questionnaire	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
3.	Attachment 2-B: Organization Profile	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
4.	Attachment 3-A: Method Proposal	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
5.	Attachment 3-B: Key Personnel Proposal	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
6.	Attachment 3-C: Proposed Subcontractors	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
7.	Attachment 3-D: Error! Reference source not found.	N/A
8.	Attachment 3-E: Israel Boycott Disclosure	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
9.	Attachment 4: State Pricing	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
10.	Attachment 5-A: Confidential Information Designation	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
11.	Attachment 5-B: Conformance Statements	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
12.	Attachment 5-C: Error! Reference source not found.	N/A
13.	Attachment 5-C: Offer Checklist	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no
14.	Attachment 5-E: Attachments and Exhibits	<input checked="" type="checkbox"/> YES <input type="checkbox"/> no

End of Attachment 5-D

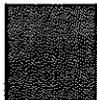
End of Part 4



	<p align="center">Request for Proposals Solicitation No. ADSP017-00007390 Description: Bulk Fuel and Bulk Fuel Propane</p>	<p align="center">Arizona Department of Administration State Procurement Office 100 N 15th Ave., Suite 201 Phoenix, AZ 85007</p>
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Attachment 5-E
Attachments and Exhibits

- EXHIBIT ADELIVERY PRICES/FUELS AND COUNTY LOCATIONS.....
EXHIBIT BRACK RATE PRICING SHEET.....



Apache Cochise Coconino Gila Graham Greenlee La Paz Maricopa Mohave Navajo Pima Pinal Santa Cruz Yavapai Yuma

Bulk Fuel Delivery (\$ per Gallon)

Do NOT Include Taxes

Diesel

0 to 1,000 gallons	0	0.4104	0	0.7791	0.895	1.095	0	0.2531	0	0.2284	0.3311	0.4604	0	0.499
1,000 to 4,000 gallons	0	0.144	0	0.1523	0.2176	0.2604	0	0.0723	0	0.0138	0.0711	0.0404	0	0.135
4,000 to 10,000 gallons	0	-0.0043	0	0.0184	0.0354	0.0595	0	-0.0108	0	-0.0168	0.0394	-0.0003	0	0.0495
Emergency Delivery Charge	0	125	0	125	125	150	0	125	0	125	125	150	0	125

Red Dye Diesel

0 to 1,000 gallons	0	0.4104	0	0.7791	0.895	1.095	0	0.2531	0	0.2284	0.3311	0.4604	0	0.499
1,000 to 4,000 gallons	0	0.144	0	0.1523	0.2176	0.2604	0	0.0723	0	0.0138	0.0711	0.0404	0	0.135
4,000 to 10,000 gallons	0	-0.0043	0	0.0184	0.0354	0.0595	0	-0.0108	0	-0.0168	0.0394	-0.0003	0	0.0495
Emergency Delivery Charge	0	125	0	125	125	150	0	125	0	125	125	150	0	125

Low Sulfur Diesel

0 to 1,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1,000 to 4,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000 to 10,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Emergency Delivery Charge	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Unleaded

0 to 1,000 gallons	0	0.4701	0	0.7741	0.905	1.115	0	0.2821	0	0.2521	0.3701	0.5201	0	0.562
1,000 to 4,000 gallons	0	0.174	0	0.1473	0.2273	0.2701	0	0.0673	0	0.0285	0.0601	0.0501	0	0.157
4,000 to 10,000 gallons	0	0.0242	0	0.0197	0.0451	0.0542	0	-0.0058	0	-0.0071	0.0384	0.0004	0	0.069
Emergency Delivery Charge	0	125	0	125	125	150	0	125	0	125	125	150	0	125

Unleaded Oxygenated

0 to 1,000 gallons	0	0.4701	0	0.7741	0.905	1.115	0	0.2821	0	0.2521	0.3701	0.5201	0	0.562
1,000 to 4,000 gallons	0	0.174	0	0.1473	0.2273	0.2701	0	0.0673	0	0.0285	0.0601	0.0501	0	0.157
4,000 to 10,000 gallons	0	0.0242	0	0.0197	0.0451	0.0542	0	-0.0058	0	-0.0071	0.0384	0.0004	0	0.069
Emergency Delivery Charge	0	125	0	125	125	150	0	125	0	125	125	150	0	125

Diesel Winter Blend

0 to 1,000 gallons	0	0.2704	0	0.8191	0.929	1.134	0	0.3131	0	0.2684	0.3711	0.5804	0	0.515
1,000 to 4,000 gallons	0	0.1004	0	0.1923	0.2576	0.3004	0	0.1123	0	0.0588	0.1111	0.0804	0	0.015
4,000 to 10,000 gallons	0	0.0357	0	0.0647	0.0754	0.0995	0	0.0192	0	0.0232	0.0794	0.0397	0	0.061
Emergency Delivery Charge	0	125	0	125	125	150	0	125	0	125	125	150	0	125

Butane and Propane LP(Liquid Propane Gas)

0 to 1,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1,000 to 4,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000 to 10,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Emergency Delivery Charge	0	0	0	0	0	0	0	0	0	0	0	0	0	0

B20 Clear Diesel Fuel

0 to 1,000 gallons	0	0.4104	0	0.7791	1.11	1.135	0	0.2531	0	0.2284	0.3311	0.4604	0	0.515
1,000 to 4,000 gallons	0	0.144	0	0.1523	0.2176	0.2604	0	0.0723	0	0.0138	0.0711	0.0404	0	0.015
4,000 to 10,000 gallons	0	-0.0043	0	0.0184	0.0354	0.0595	0	-0.0108	0	-0.0168	0.0394	-0.0003	0	0.061
Emergency Delivery Charge	0	125	0	125	125	150	0	125	0	125	125	150	0	125

Flex Fuel

0 to 1,000 gallons	0	0.4701	0	0.7741	1.3501	1.7081	0	0.2821	0	0.2521	0.3701	0.5201	0	0.562
1,000 to 4,000 gallons	0	0.174	0	0.1473	0.2273	0.2701	0	0.0673	0	0.0285	0.0601	0.0501	0	0.157
4,000 to 10,000 gallons	0	0.0242	0	0.0197	0.0451	0.0542	0	-0.0058	0	-0.0071	0.0384	0.0004	0	0.069

	0	125	0	125	150	0	125	0	125	150	0	125
Emergency Delivery Charge	0	125	0	125	150	0	125	0	125	150	0	125
Emergency Tank Rentals												
500 Gallon	0	4,709	0	4,709	4,709	0	4,709	0	4,709	4,709	0	4,709
1,000 Gallon	0	7,010	0	7,010	7,010	0	7,010	0	7,010	7,010	0	7,010
2,000 Gallon	0	16,976	0	16,976	16,976	0	16,976	0	16,976	16,976	0	16,976
3,000 Gallon	0	19,742	0	19,742	19,742	0	19,742	0	19,742	19,742	0	19,742
4,000 Gallon	0	21,556	0	21,556	21,556	0	21,556	0	21,556	21,556	0	21,556
10,000 Gallon	0	38,889	0	38,889	38,889	0	38,889	0	38,889	38,889	0	38,889
Tank Rentals												
500 Gallon	0	4,238	0	4,238	4,238	0	4,238	0	4,238	4,238	0	4,238
1,000 Gallon	0	6,309	0	6,309	6,309	0	6,309	0	6,309	6,309	0	6,309
2,000 Gallon	0	15,278	0	15,278	15,278	0	15,278	0	15,278	15,278	0	15,278
3,000 Gallon	0	17,768	0	17,768	17,768	0	17,768	0	17,768	17,768	0	17,768
4,000 Gallon	0	19,400	0	19,400	19,400	0	19,400	0	19,400	19,400	0	19,400
10,000 Gallon	0	35,000	0	35,000	35,000	0	35,000	0	35,000	35,000	0	35,000



Attachment 5-A (Confidential Information)

In Attachment 2-A we consider two supplemental documents deemed confidential. These are not trade secrets but rather information that we feel should not be made public.

1. "SP ORG CHART – June 2017.pdf" is supplied in response to question 9 regarding our organizational chart. Senergy operates in a very competitive market. Many times, our employees are solicited from other competitors for employment. We understand the states need for this information but it should not be made public. Senergy recently participated in the State Lubricant RFP and was agreed that this information was confidential.
2. "Senergy Audited FS 2015.pdf" and "Senergy Audited FS 2016.pdf" are supplied to response to question 10. Similar to question 9, we believe this information is helpful for the state to evaluate the contractors in this RFP. We are a privately held company and do not share our financial information publically.

A handwritten signature in black ink, appearing to read 'M. Panzica', is written above a horizontal line.

Mark Panzica
General Sales Manager

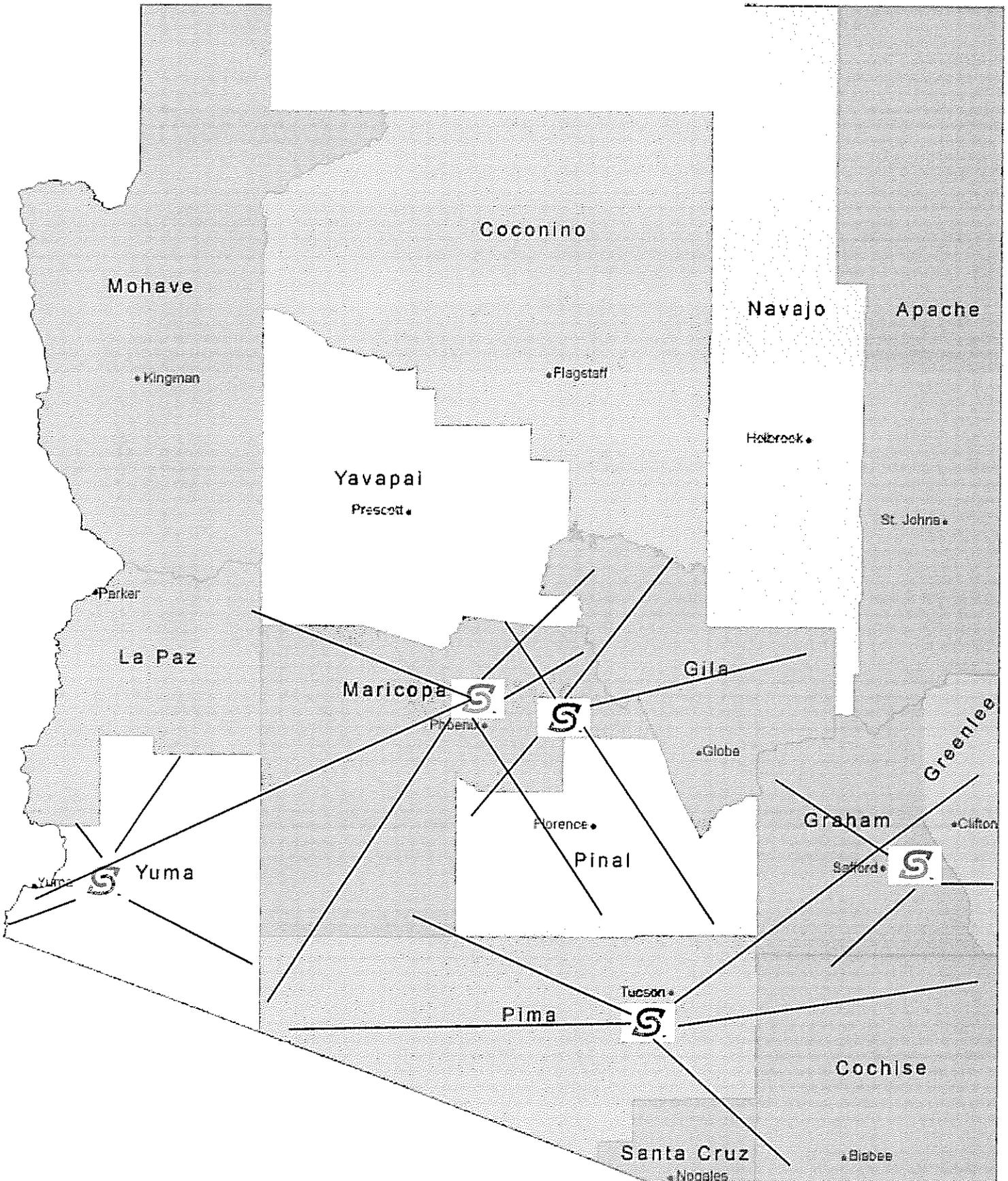
07/10/2017

Date



SENERGY™

PETROLEUM



	Apache	Cochise	Coconino	Gila	Graham	Greenlee	La Paz	Maricopa	Mohave	Navajo	Pima	Pinal	Santa Cruz	Yavapai	Yuma
Bulk Fuel Delivery (\$ per Gallon)															
Do NOT Include Taxes															
Diesel															
0 to 1,000 gallons	0	0.4104	0	0.7791	1.3404	1.6984	0	0.2531	0	0	0.2284	0.3311	0.4604	0	1.4251
1,000 to 4,000 gallons	0	0.144	0	0.1523	0.2176	0.2604	0	0.0723	0	0	0.0138	0.0711	0.0404	0	0.2811
4,000 to 10,000 gallons	0	-0.0043	0	0.0184	0.0354	0.0595	0	-0.0108	0	0	-0.0168	0.0394	-0.0003	0	0.0801
Emergency Delivery Charge	0	200	0	200	200	225	0	150	0	0	150	150	200	0	200
Red Dye Diesel															
0 to 1,000 gallons	0	0.4104	0	0.7791	1.3404	1.6984	0	0.2531	0	0	0.2284	0.3311	0.4604	0	1.4251
1,000 to 4,000 gallons	0	0.144	0	0.1523	0.2176	0.2604	0	0.0723	0	0	0.0138	0.0711	0.0404	0	0.2811
4,000 to 10,000 gallons	0	-0.0043	0	0.0184	0.0354	0.0595	0	-0.0108	0	0	-0.0168	0.0394	-0.0003	0	0.0801
Emergency Delivery Charge	0	200	0	200	200	225	0	150	0	0	150	150	200	0	200
Low Sulfur Diesel															
0 to 1,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1,000 to 4,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000 to 10,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Emergency Delivery Charge	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Unleaded															
0 to 1,000 gallons	0	0.4701	0	0.7741	1.3501	1.7081	0	0.2821	0	0	0.2521	0.3701	0.5201	0	1.429
1,000 to 4,000 gallons	0	0.174	0	0.1473	0.2273	0.2701	0	0.0673	0	0	0.0285	0.0601	0.0501	0	0.285
4,000 to 10,000 gallons	0	0.0242	0	0.0197	0.0451	0.0542	0	-0.0058	0	0	-0.0071	0.0384	0.0004	0	0.084
Emergency Delivery Charge	0	200	0	200	200	225	0	150	0	0	150	150	200	0	200
Unleaded Oxygenated															
0 to 1,000 gallons	0	0.4701	0	0.7741	1.3501	1.7081	0	0.2821	0	0	0.2521	0.3701	0.5201	0	1.429
1,000 to 4,000 gallons	0	0.174	0	0.1473	0.2273	0.2701	0	0.0673	0	0	0.0285	0.0601	0.0501	0	0.285
4,000 to 10,000 gallons	0	0.0242	0	0.0197	0.0451	0.0542	0	-0.0058	0	0	-0.0071	0.0384	0.0004	0	0.084
Emergency Delivery Charge	0	200	0	200	200	225	0	150	0	0	150	150	200	0	200
Diesel Winter Blend															
0 to 1,000 gallons	0	0.2704	0	0.8191	1.3804	1.7384	0	0.3131	0	0	0.2684	0.3711	0.5804	0	1.4651
1,000 to 4,000 gallons	0	0.1004	0	0.1923	0.2576	0.3004	0	0.1123	0	0	0.0588	0.1111	0.0804	0	0.3211
4,000 to 10,000 gallons	0	0.0357	0	0.0647	0.0754	0.0995	0	0.0192	0	0	0.0232	0.0794	0.0397	0	0.1201
Emergency Delivery Charge	0	200	0	200	200	225	0	150	0	0	150	150	200	0	200
Butane and Propane LPG(Liquid Propane Gas)															
0 to 1,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1,000 to 4,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000 to 10,000 gallons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Emergency Delivery Charge	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Emergency Tank Rentals															
500 Gallon	0	4,709	0	4,709	4,709	4,709	0	4,709	0	0	4,709	4,709	4,709	0	4,709
1,000 Gallon	0	7,010	0	7,010	7,010	7,010	0	7,010	0	0	7,010	7,010	7,010	0	7,010
2,000 Gallon	0	16,976	0	16,976	16,976	16,976	0	16,976	0	0	16,976	16,976	16,976	0	16,976
3,000 Gallon	0	19,742	0	19,742	19,742	19,742	0	19,742	0	0	19,742	19,742	19,742	0	19,742
4,000 Gallon	0	21,556	0	21,556	21,556	21,556	0	21,556	0	0	21,556	21,556	21,556	0	21,556
10,000 Gallon	0	38,889	0	38,889	38,889	38,889	0	38,889	0	0	38,889	38,889	38,889	0	38,889

APACHE COUNTY		OPIS RACK	BPN RACK	GILA COUNTY		OPIS RACK	BPN RACK	LA PAZ COUNTY		OPIS RACK	BPN RACK	NAVAJO COUNTY		OPIS RACK	BPN RACK	SANTA CRUZ COUNTY		OPIS RACK	BPN RACK				
Diesel	No Bid			Diesel	Phoenix			Diesel	No Bid			Diesel	No Bid			Diesel	Tucson			Diesel	Tucson		
Red Dye Diesel	No Bid			Red Dye Diesel	Phoenix			Red Dye Diesel	No Bid			Red Dye Diesel	No Bid			Red Dye Diesel	No Bid			Red Dye Diesel	Tucson		
Low Sulfur Diesel	No Bid			Low Sulfur Diesel	Phoenix			Low Sulfur Diesel	No Bid			Low Sulfur Diesel	No Bid			Low Sulfur Diesel	No Bid			Low Sulfur Diesel	Tucson		
Diesel Winter Blend	No Bid			Diesel Winter Blend	Phoenix			Diesel Winter Blend	No Bid			Diesel Winter Blend	No Bid			Diesel Winter Blend	No Bid			Diesel Winter Blend	Tucson		
Unleaded	No Bid			Unleaded	Phoenix			Unleaded	No Bid			Unleaded	No Bid			Unleaded	No Bid			Unleaded	Tucson		
Unleaded Oxygenated	No Bid			Unleaded Oxygenated	Phoenix			Unleaded Oxygenated	No Bid			Unleaded Oxygenated	No Bid			Unleaded Oxygenated	No Bid			Unleaded Oxygenated	Tucson		
Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid		
Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid		
Ethanol	No Bid			Ethanol	Phoenix			Ethanol	No Bid			Ethanol	No Bid			Ethanol	No Bid			Ethanol	Tucson		
COCHISE COUNTY				GRAHAM COUNTY				MARICOPA COUNTY				PINAL COUNTY				YAVAPAI COUNTY							
Diesel	Tucson			Diesel	Tucson			Diesel	Phoenix			Diesel	Phoenix			Diesel	No Bid			Diesel	No Bid		
Red Dye Diesel	Tucson			Red Dye Diesel	Tucson			Red Dye Diesel	Phoenix			Red Dye Diesel	Phoenix			Red Dye Diesel	No Bid			Red Dye Diesel	No Bid		
Low Sulfur Diesel	Tucson			Low Sulfur Diesel	Tucson			Low Sulfur Diesel	Phoenix			Low Sulfur Diesel	Phoenix			Low Sulfur Diesel	No Bid			Low Sulfur Diesel	No Bid		
Diesel Winter Blend	Tucson			Diesel Winter Blend	Tucson			Diesel Winter Blend	Phoenix			Diesel Winter Blend	Phoenix			Diesel Winter Blend	No Bid			Diesel Winter Blend	No Bid		
Unleaded	Tucson			Unleaded	Tucson			Unleaded	Phoenix			Unleaded	Phoenix			Unleaded	No Bid			Unleaded	No Bid		
Unleaded Oxygenated	Tucson			Unleaded Oxygenated	Tucson			Unleaded Oxygenated	Phoenix			Unleaded Oxygenated	Phoenix			Unleaded Oxygenated	No Bid			Unleaded Oxygenated	No Bid		
Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid		
Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid		
Ethanol	Tucson			Ethanol	Tucson			Ethanol	Phoenix			Ethanol	Phoenix			Ethanol	No Bid			Ethanol	No Bid		
COCONINO COUNTY				GREENLEE COUNTY				MOHAVE COUNTY				PIMA COUNTY				YUMA COUNTY							
Diesel	No Bid			Diesel	Tucson			Diesel	No Bid			Diesel	Tucson			Diesel	Phoenix			Diesel	Phoenix		
Red Dye Diesel	No Bid			Red Dye Diesel	Tucson			Red Dye Diesel	No Bid			Red Dye Diesel	Tucson			Red Dye Diesel	Phoenix			Red Dye Diesel	Phoenix		
Low Sulfur Diesel	No Bid			Low Sulfur Diesel	Tucson			Low Sulfur Diesel	No Bid			Low Sulfur Diesel	Tucson			Low Sulfur Diesel	Phoenix			Low Sulfur Diesel	Phoenix		
Diesel Winter Blend	No Bid			Diesel Winter Blend	Tucson			Diesel Winter Blend	No Bid			Diesel Winter Blend	Tucson			Diesel Winter Blend	Phoenix			Diesel Winter Blend	Phoenix		
Unleaded	No Bid			Unleaded	Tucson			Unleaded	No Bid			Unleaded	Tucson			Unleaded	Tucson			Unleaded	Phoenix		
Unleaded Oxygenated	No Bid			Unleaded Oxygenated	Tucson			Unleaded Oxygenated	No Bid			Unleaded Oxygenated	Tucson			Unleaded Oxygenated	Phoenix			Unleaded Oxygenated	Phoenix		
Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid			Butane	No Bid		
Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid			Propane	No Bid		
Ethanol	No Bid			Ethanol	Tucson			Ethanol	No Bid			Ethanol	Tucson			Ethanol	Phoenix			Ethanol	Phoenix		