

**COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
CLIMATEC, LLC**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of June 21, 2017, between the Town of Fountain Hills, an Arizona municipal corporation (the “Town”), and Climatec, LLC, an Arizona limited liability company (the “Contractor”).

RECITALS

A. After a competitive procurement process, 1 Governmental Procurement Alliance (“1GPA”) entered into Contract No. 16-04P-03, dated May 2 2016, and amended on April 21, 2017 (collectively, the “1GPA Contract”), for the Contractor to provide fire and safety inspections, products and service solutions. A copy of the 1GPA 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 1GPA Contract, at its discretion and with the agreement of the awarded Contractor, and the 1GPA 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 1GPA Contract and this Agreement, (ii) establishing the terms and conditions by which the Contractor may provide the Town with six 4K cameras with infrared illumination and video analytics, as more particularly set forth in Section 2 below (the “Materials and Services”) and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Materials and 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 until May 1, 2018, unless terminated as otherwise provided in this Agreement or the 1GPA Contract.

2. Scope of Work. Contractor shall provide to the Town the Materials and Services under the terms and conditions of the 1GPA Contract and as more particularly set forth in the Proposal attached hereto as Exhibit B and incorporated herein by reference.

3. Inspection; Acceptance. All Materials and Services are subject to final inspection and acceptance by the Town. Materials failing to conform to the requirements of this Agreement and/or the IGPA Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Upon discovery of non-conforming Materials or 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 Materials or Service into compliance and withhold the cost of same from any payments due to the Contractor.

4. Compensation. The Town shall pay Contractor an amount not to exceed \$22,930.64 for the Materials and Services at the rates set forth in the IGPA Contract and as more particularly set forth in the Proposal.

5. 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 IGPA Contract and (ii) document and itemize all work completed to date. 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 IGPA Contract will be subject to rejection and may be returned.

6. Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under Section 7 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 7 below. To the extent necessary for the Town to audit Records as set forth in this Section, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. 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.

7. 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.

8. 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.

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

10. 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.

11. 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.

12. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any Town-approved purchase order, the 1GPA Contract, the Proposal 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 1GPA 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 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 1GPA 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.

13. Rights and Privileges. To the extent provided under the 1GPA Contract, the Town shall be afforded all of the rights and privileges afforded to the government and shall be "1GPA" (as defined in the 1GPA Contract) for the purposes of the portions of the 1GPA Contract that are incorporated herein by reference.

14. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 13 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to 1GPA to the extent provided under the 1GPA 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 any and all 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.

15. 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:           GUST ROSENFELD P.L.C.  
One East Washington Street, Suite 1600  
Phoenix, Arizona 85004-2553  
Attn: Andrew J. McGuire

If to Contractor:       Climatec, LLC  
2851 West Kathleen Road  
Phoenix, Arizona 85053  
Attn: George Brinkley

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.

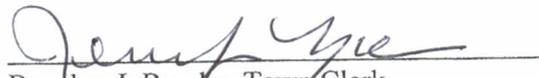
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,  
an Arizona municipal corporation

  
Grady E. Miller, Town Manager

ATTEST:

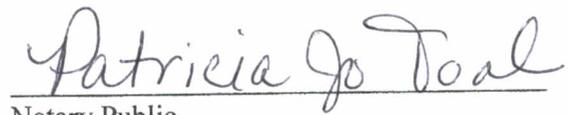
  
Bevelyn J. Bender, Town Clerk  
Jennifer Lyons Acting Town  
Clerk for Bevelyn J. Bender  
(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

On \_\_\_\_\_, 2017, 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.



(Affix notary seal here)

  
Notary Public

**“Contractor”**

CLIMATEC, LLC,  
an Arizona limited liability company

By: Troy Doree

Name: TROY DOREE

Title: OPERATIONS MANAGER

(ACKNOWLEDGMENT)

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF MARICOPA )

On June 22, 2017, before me personally appeared \_\_\_\_\_  
Troy Doree, the ops manager of CLIMATEC, LLC, an Arizona  
limited liability company, whose identity was proven to me on the basis of satisfactory evidence  
to be the person who he/she claims to be, and acknowledged that he/she signed the above  
document on behalf of the limited liability company.

Tricia Romano  
Notary Public

(Affix notary seal here)



# SECURITY & LIFE SAFETY

WE MAKE BUILDINGS WORK FOR YOU



## A CLIMATEC SOLUTION

Town Of Fountain Hills

Prepared for

Town of Fountain Hills

**06/26/2017**

Presented by

Sean Kahus

# CLIMATEC SOLUTION PROPOSAL

Town of Fountain Hills  
Mike Ciccarone  
16705 E. Avenue of the Fountains  
Fountain Hills, AZ 85268

Project Bid per: **Site Walk**

Plans: N/A  
Specs: N/A

## Pricing Per IGPA Contract RFP# 16-04P

### General Summary

Climatec will supply and install (6) six 4K cameras with infrared illumination and video analytics. The cameras will be installed on a pole on the North Corner of the common area as well as on top of the Garden potting house. The Garden house cameras will communicate with the head end via a wireless network device, which will transmit to another antenna mounted on top of the main building.

Climatec will pull cable from the conduit/Pole location to the Main building. A video storage appliance will be installed in the IDF location. The appliance will supply power to the cameras and act as the data storage for the video. The appliance will be connected to the Town of Fountain Hills network for viewing and alarm conditions.

The cameras will be setup to alarm during hours requested. The information can be sent to personnel for response.

City of Fountain Hills will supply adequate mounting in approved locations.

### Testing and Final Commissioning

Final testing and final commissioning reports will be completed and supplied to Mike Ciccarone.

### Installation Schedule

The project installation will be done during normal business hours 6am to 4pm Monday-Friday.

### Warranty

Climatec will honor all manufacturer warranties as well as project specific warranty periods.

## EXCLUSIONS

- Underground conduit to existing buildings.
- 120 VAC
- Concrete pad and trenching.
- Conduit, j-boxes, racks, wire pathways by others.
- Viewing PC's for access control and video by Owner.

# MATERIAL LIST

Qty	Part No	Description	Unit Price	Ext Price
<b>Town of Fountain Hills, Avigilon Camera Solution</b>				
1	VMA-AS1-8P4	HD Video Appliance Pro 8-port 4TB unit with ACC Core 8-ch license	\$2,352.86	\$2,352.86
600	665610-110DB	24-4P UNS SOL PE C5E Blk DB	\$0.24	\$144.00
<b>Wireless Components</b>				
1	NWK1	Hardened Point-to-Point Wireless Ethernet Kit, Contains Client and Remote Units, power injection module, power supply and mounting assembly, Integrated 19dBi 17° beamwidth Antenna, For use in North Am	\$1,235.29	\$1,235.29
1	NWBKT	Bracket Kit for NetWave Products	\$49.77	\$49.77
1	NW1	Individual Hardened Point-to-Multipoint Wireless Ethernet device, includes power injection module, power supply and mounting assembly, Integrated 19dBi 17° beamwidth Antenna, For use in North America	\$701.36	\$701.36
<b>Network Devices</b>				
8	DTK-MRJPOE	Power over Ethernet Surge Protection - RJ45 Connection, CAT5e	\$58.14	\$465.12
2	Vi30005	5 port 60W PoE++ Powered PoE 10/100/1G Switch	\$195.50	\$391.00
2	Vi1120	Desktop Power Supply, 56 VDC @ 2.14, 120W, 90-240 VAC Input	\$97.14	\$194.28
1	Vi0014	Wall Mount Power Supply, 12 VDC @ 3 A, 90-240 VAC Input	\$22.86	\$22.86
3	VI0012	Wall Mount Power Supply, 12 VDC @ 1 A, 90-240 VAC Input.	\$17.14	\$51.42
<b>Cameras</b>				
6	H4-BO-JBOX1	Junction box for the H4A or H4SL HD Bullet cameras.	\$77.14	\$462.84
6	8.0-H4A-BO1-IR	4K UHD (8.0 Megapixel), 4.3-8mm f/1.8 P-iris lens, Integrated IR, Self-Learning Video Analytics	\$1,500.00	\$9,000.00

# PROPOSAL COST SUMMARY

## Security and Life Safety System Project Cost Breakout

### Installation Investment

Material	\$15,070.83
Technician Labor	\$6,750.93
<b>Grand Total</b>	<b>\$21,821.76</b>

By signing below, I accept this proposal and agree to the terms and conditions contained herein.

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Customer Name (Printed):

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Customer Signature:

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Date:

# TERMS & CONDITIONS

By accepting this Proposal, Purchaser agrees to be bound by the following terms and conditions:

- SCOPE OF WORK.** This proposal is valid for 60 days from date of proposal. Beyond that time Climatec reserves the right to revise any or all portions of it. This proposal is based upon the use of straight time labor only unless stated otherwise in this proposal. Plastering, patching and painting are excluded unless stated otherwise in this proposal. "In-line" duct and piping devices, including but not limited to valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Climatec Building Technologies Group (Climatec), shall be distributed to and installed by others under Climatec's supervision but at no additional cost to Climatec. Purchaser agrees to provide Climatec with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) Without charge. Climatec agrees to keep the jobsite clean of debris arising out of its own operations. Purchaser shall not back charge Climatec for any cost or expenses without Climatec's written consent.  
Unless specifically noted in the statement of the scope of the work or services undertaken by Climatec under this agreement, Climatec's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal or disposal of environment Hazards or dangerous substances, to include but not to be limited to asbestos, PCBs, or mold discovered in or on the premises. Any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify or alter the scope of work or services to be performed by Climatec shall not operate to compel Climatec to perform any work relating to Hazards without Climatec's express written consent.
- INVOICING & PAYMENTS.** Climatec may invoice Purchaser for all materials delivered to the job site or to an off-site storage facility and for the work performed on-site and off-site. Purchaser agrees to pay Climatec amounts invoiced upon receipt of invoice. Waivers of lien will be furnished upon request, as the work progresses; to the extent payments are received. If Climatec's invoice is not paid within 30 days of its issuance, it is delinquent and Climatec shall add 1% per month interest onto delinquent amounts.
- MATERIALS.** If the materials or equipment included in this proposal become temporarily or permanently unavailable, the time for performance of the work shall be extended to the extent thereof, and in case of permanent unavailability, Climatec shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonable substitute therefore.
- WARRANTY.** Climatec warrants that the equipment manufactured by it shall be free from defects in material and workmanship arising from normal usage for a period of one (1) year from delivery of said equipment, or if installed by Climatec, for a period of one (1) year from the installation date. Climatec warrants that for equipment furnished and/or installed but NOT manufactured by Climatec, Climatec will extend the same warranty and terms and conditions, which Climatec receives from the manufacturer of said equipment. For equipment installed by Climatec, if Purchaser provides written notice to Climatec of any such defects within thirty (30) days after the appearance or discovery of such defect, Climatec shall, at its option, repair or replace the defective equipment and return said equipment to Purchaser. All transportation charges incurred in connection with the warranty for equipment not installed by Climatec shall be borne by Purchaser. These warranties do not extend to any equipment which has been repaired by others, abused, altered or misused, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE.
- LIABILITY.** Climatec shall not be liable for any special, indirect, or consequential damages arising in any manner from the equipment or material furnished or the work performed pursuant to this agreement.
- TAXES.** The price of this proposal does not include duties, sale, use, excise or other similar taxes unless required by federal, state or local laws unless stated otherwise in this proposal. Purchaser shall pay, in addition to the stated price, all taxes not legally required to be paid by Climatec or, alternatively, shall provide Climatec with acceptable tax exemption certificates. Climatec shall provide Purchaser with any tax payment certificate upon request and after completion and acceptance of the work.
- DELAYS.** Climatec shall not be liable for any delay in the performance of the work resulting from or attributed to acts of circumstance beyond Climatec's control, including but not limited to acts of God, fire riots, labor disputes, conditions of the premises, acts or omissions of the Purchaser, Owner or other Contractors or delays caused by suppliers or subcontractors or Climatec, etc.
- COMPLIANCE WITH LAWS.** Climatec shall comply with all applicable federal, state, and local laws and regulations. All licenses and permits required for the prosecution of the work shall be obtained and paid for by the purchaser unless stated otherwise in this proposal.
- DISPUTES.** All disputes involving more than \$15,000 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorney's fees incurred as a result. Nothing here shall limit any rights under construction lien laws.
- INSURANCE.** Insurance coverage in excess of Climatec's standard limits will be furnished when requested and required and at Climatec's discretion the costs of this additional insurance may be passed on to the Purchaser. No credit will be given or premium paid by Climatec for insurance afforded by others.
- INDEMNITY.** The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorney's fees which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part by the negligent act or omission of the indemnifying Party.
- OCCUPATIONAL SAFETY AND HEALTH.** The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act (OSHA) relating in any way to the project or project site.
- ENTIRE AGREEMENT.** This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings.
- CHANGES.** No change or modification of any of the terms and conditions stated herein shall be binding upon Climatec unless accepted by Climatec in writing.
- SEVERABILITY.** If one or more of the provision of this agreement are held to be unenforceable under laws, such provision(s) shall be excluded from these terms and conditions and the remaining terms and conditions shall be interpreted as if such provision were so excluded and shall be enforced in accordance to their terms and conditions.