



April 10, 2020

Re: **20-RFP-SVMPO-OC1 ON-CALL PLANNING PROFESSIONAL SERVICES**

Dear Respondent(s):

This Addendum forms a part of the contract documents and **modifies** the original ITB documents as noted below:

1. Is there a Form 10 for Insurance Acknowledgement or do we just need to provide a statement? This was listed on the "SECTION 3: PROPOSAL FORMS" document, but there was not a form attached. **Form 10 is missing from the posted Solicitation and has been attached to this Addendum.**
2. Could you please provide a copy of the City's contract, as referenced in the RFP? **The City of Sierra Vista, SVMPO's Fiscal Agent, does not typically include a copy of the contract in their Solicitations but will attach a template as a courtesy example. This will be a SVMPO contract, not a City contract, and as such may include additional provisions to meet federal and state requirements (the SVMPO's funding partners).**
3. Is it acceptable for a firm to submit as a prime and to be on other submittals as a sub consultant? **Yes, it is acceptable.**
4. Is this a current contract? And if yes, what firms are currently on this contract? **No, this is not a current contract. There is not an On-Call list for the SVMPO at this time.**
5. Who will be on the selection team? **This is the first time that the MPO/COG's in the State have worked together to release an On-Call Solicitation. The selection team will include three MPO's; one COG, a representative from ADOT and three local agencies (the City of Sierra Vista, the Town of Huachuca City and Cochise County). About 40% of the ranking team will be engineers and 60% will be professional planners.**
6. Do we need to have wet signatures on either of the printed proposal copies submitted or will digital/scanned signature be accepted on the forms considering the pandemic? **Digital/scanned signatures will be accepted.**
7. Regarding documentation of professional licensure – because our professional engineers are working from home due to the COVID-19 situation, copies of licensures are in work offices, would SVMPO accept screen shots of PE licensures from the AZ State Board of Registration website? **Yes, screen shots would be acceptable documentation of professional licensure.**
8. On page numbered 6 of the RFP, item 24. Business License, it states: "Consultant is requested to submit a copy of its current, valid business license with its proposal." Can you

please clarify whether the city license you are looking for is the city in which the consultant's home office resides. Our city does not require us to have business license; can we substitute another document, such as our ACC Certificate of Good Standing or Arizona State Board of Technical Registration firm registration? **If a business license is required in the city in which your business resides, please provide that. If you City does not, the ACC Certificate of Good Standing or Arizona State Board of Technical Registration will be accepted. Additional licensure may be required by local agencies at the time of award for specific task orders taking place within their jurisdictions.**

9. Other than Form 4: Sub-Recipient Reporting, professional certifications, and AZ UTRACS email, do the sub-consultants need to sign any of the other forms or provide any of the other items listed in the document "SECTION 3: PROPOSAL FORMS"? **No; however, sub-consultants may need to sign additional forms at the time of contracting but we did not want primes to be tied to specific sub-consultants for the length of this On-Call time-period.**
10. Do we still need to include the DBE forms (Form 5 and Form 11) in the proposal even though there is no DBE goal for this effort? **Yes, even though there is no DBE requirement we must document that notification to each consultant team and consultant acknowledgement of receipt.**
11. For Form 11: DBE Letter of Intent, the "Dollar Amount or %" commitment to the DBE will vary based on each task order. **Is it ok to fill-in "To be determined" for now?" That would be fine. As there is a zero percent goal, zero is also fine, but we hope that for some task orders Prime consultants will be hiring DBE's to fill part of the task orders, where appropriate. There is no requirement to commit to any dollar amount or percent of DBE for this On-Call.**
12. In the RFP, the "Not to Exceed Rate Form" is listed with the other forms and attachments on SECTION 3: PROPOSAL FORMS, but the "Staff Expense Certification" section is listed separate from the forms and appendices on Page 27. Should the rates be provided separate from the appendices or as a part of that section? **These should be included in the order provided in the section about submittal format on page 27. The Staff Expense rates are noted as section 9.**
13. Should we provide 1-3 project examples per service category or 1-3 project examples total in Section 3 "Range of Services Offered"? **1-3 examples per service category is recommended. It is acceptable for examples to overlap, where appropriate.**
14. Should we provide three references total or three references per service category? **Three total references are adequate for your Proposal.**
15. Do we need to present references from our sub-consultants? **No, you are vetting your own sub-consultants and, given the length of time of this On-Call and the potential of tasks to be through-out the State, this On-Call allows the flexibility to potentially add sub-consultants needed to fill out your team for a specific task in the future.**
16. Can we submit for one or a few of the different on-call services or do we need to put a team together that provides all the services? **You may submit for just one of the categories, or more than one, or all five of them. It is anticipated that there may be firms that only submit for only one category of the five noted in this On-Call Solicitation. We do not**

expect that many consultant teams will have the interest or expertise to provide services for all five categories.

17. Regarding the Contracting Eligibility Statement. Provide a statement if your firm is currently on an ADOT On-Call list, or on any other Arizona based On-Call list, relevant to the category of services you wish to provide. Is this a requirement? **No, it is not required that your firm be on any other On-Call lists. This item was included to help us assess if firms already had met or exceeded qualifications for other On-Call lists. This information will also help also assess which region of the State your firm might have stronger connections with local agencies and/or the State.**
18. Should other Arizona-based On-Calls with cooperative language, not administered by a state agency (e.g. the CYMPO Regional Professional Services On-Call), be listed? **The intent was to solicit a response that included both state and other, such as CYMPO,'s lists. The primarily purpose of this information is to ultimately strengthen the justification for our final On-Call list, as we intend it to be used state-wide, potentially up to a five-year length of time.**
19. With so many firms, will you be limiting how many firms you will be selecting or will you just select a two or three per category? **A selection committee will be ranking firms by category. A minimum of three firms will be selected for each category with the expectation that some firms may overlap into more than one. We will be taking into consideration that this list will be used throughout the State, not just here in southeastern Arizona. As an On-Call this will not be a selection down to only a few limited firms but rather designed to create a list of highly qualified firms for selection for future Work program tasks. Final selection will then be done through Requests for Cost Proposals using the funding thresholds noted in the RFP.**

PROPOSAL SUBMITTAL OPTIONS

20. The RFP provides two slightly different ways to address the proposals. Are either of these acceptable? If not, which should be used?
 - a. Sierra Vista Metropolitan Planning Organization
C/O City of Sierra Vista Procurement Dept.
Attention: Helen Lee, Contracts Management Analyst
1011 N Coronado Drive
Sierra Vista, AZ 85635
 - b. City of Sierra Vista—Procurement Division
Office of the Chief Procurement Officer
1011 North Coronado Drive
Sierra Vista, AZ 85635

Either is acceptable – the first (a) is preferred but both will be delivered to the correct location.

21. Given the challenges with off-site work, would the SVMPO/City of Sierra Vista allow an electronic submittal?

It is the preferred method of delivery to receive a mailed Proposal as defined in Addendum 1. However, it is acknowledged that Arizona is currently operating under Emergency Orders and many staff, both in the private and public sector are working from home with limited copying and mailing options easily available to them.

Therefore, [an electronic submittal option is being made available with this caveat](#): The SVMPO/City of Sierra Vista have not previously used an electronic submittal process for Procurement Proposals. A link has been set up that secures your transmittal and only allows access to the Chief Procurement Officer until the date and time set for submittal. Every precaution has been made to hold submitted electronic Proposals secured and unopened; however, be advised that this is a beta test of this option and by choosing this option you acknowledge that this is an untested process. If you desire to use this option, please take the following actions by April 16th by 1 p.m.:

1. E-Mail Helen Lee at Helen.Lee@SierraVistaAz.gov a request for a link.
2. Submit a Word or PDF document to that link confirming your desire to submit electronically.
3. If you do not receive confirmation within 24 hours of receipt of that document, please again e-mail Helen Lee so we can ensure your access for your transmittal of your Proposal.

22. Given the challenges with potential delays in deliveries, would the SVMPO/City of Sierra Vista consider an extension to the deadline? **No. If a potential delay in delivery is a concern to your firm, please submit via the electronic submittal method outlined above in Question #21.**

Except as provided herein, all terms and conditions in the proposal referenced above remain unchanged and in full force and effect. Failure to return a signed copy of this addendum could render your proposal non-responsive.

ACKNOWLEDGEMENT OF ADDENDUM NO. 2

The undersigned proposer acknowledges receipt of this addendum by returning one (1) copy of this form with the proposal package to the Procurement Division, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, Arizona 85635 by the proposal due date and time **April 21, 2020 before 1:00 P.M. ARIZONA LOCAL TIME.**

This is to acknowledge receipt of Addendum No. 2, _____ day of _____, 2020.

Name of Business

Signature of Authorized Representative/Title

Helen Lee

Contracts Management Analyst

FORM 10: INSURANCE AND RISK MANAGEMENT PROVISIONS

Consultant shall:

- a. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the SVMPO at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage on any policy.
- b. Consultant shall present to the SVMPO written evidence (Certification of Insurance) of compliance with Items a, b, and c above. Said evidence shall be to the SVMPO's satisfaction.
- c. It shall be considered a material breach if the Consultant fails to maintain insurance coverage as detailed above, **to include the SVMPO designated as Additional Insured**, and shall, at the sole discretion of the SVMPO, be grounds for immediate termination of the Contract.

Such certificates and notices **must** identify the "Certificate Holder" as follows:

Sierra Vista Metropolitan Planning Organization –
Procurement Division
1011 North Coronado Drive Sierra Vista, Arizona
85635

Certificates **must** list Project Name (where applicable).

- c. Provide and maintain minimum insurance limits as follows:

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Worker's Compensation Employer Liability	Statutory \$1,000,000
Commercial General Liability Insurance Including: (1) Premises and Operations (2) Product and Completed Operations (3) Blanket Contractual (4) Broad Form Property Damage (5) Personal Injury	\$1,000,000 Bodily Injury and Property Damage Combined Single Limit
Commercial Automobile Liability Insurance Including: (1) Owned (2) Non-Owned (3) Leased (4) Hired Vehicles	\$1,000,000 Bodily Injury and Property Damage Combined Single Limit
Professional Liability Insurance (Errors/Omissions) (Professional Services Only)	\$1,000,000 (minimum) (Combined Single Limit)

Important:

It is understood that **Insurance in no way Limits the Liability of the selected professional consulting firm.**

USE OF PREMISES

Consulting Company shall confine its apparatus, the storage of materials and the operations of its workers to limits/requirements indicated by law, ordinance, permits and any restrictions of the SVMPO/City of Sierra Vista and shall not unreasonably encumber the premises with its materials.

PROTECTION OF PROPERTY

The Consulting Company will adequately protect its own work from damage, will protect the SVMPO/City of Sierra Vista's property from damage or loss and will take all necessary precautions during the progress of the work to protect all persons and the property of others from damage or loss.

The Consulting Company shall take all necessary precautions for the safety of employees of the work and shall comply with all applicable provisions of the Federal, State and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where work is being performed.

The Consulting Company shall erect and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for the protection of its employees, the SVMPO/City of Sierra Vista employees and the public and shall post all applicable signage and other warning devices to protect against potential hazards for the work being performed.

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

To the fullest extent of the Law, the Consulting Company hereby agrees to release, indemnify, defend and hold harmless the State of Arizona, the Sierra Vista MPO, any jurisdiction or agency selecting from this On-Call Contract Agreement and their respective Board Members, officers, employees, successors, assigns and agents, from and against any and all losses (including death), claims, damages, liabilities, costs and expenses (including but not limited to all actions, proceedings, or investigations in respect thereof and any costs of judgments, settlements, court costs, attorney's fees or expenses, regardless of the outcome of any such action, proceeding, or investigation), caused by, relating to, based upon or arising out of any act or omission by the Consulting Company, its directors, officers, employees, sub-consultants, successors, assigns or agents, or

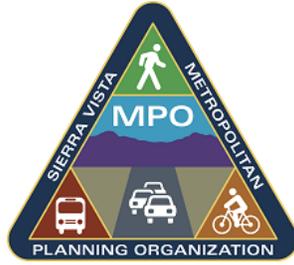
otherwise in connection (directly or indirectly) with its acceptance, or the performance, or nonperformance, of its obligations under these agreements. Such obligations shall not be construed to negate, abridge or otherwise reduce any other rights or obligations of indemnity which would otherwise exist as to any party or person as set forth in this paragraph.

The Consulting Company further agrees to protect, defend, indemnify and hold harmless Sierra Vista MPO, its Board Members, officers, employees, Sub- Consultants, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of the Consulting Company. These indemnities shall not be limited by reason of the listing of any insurance coverage.

_____, CONSULTING COMPANY, ACKNOWLEDGES HAVING READ, UNDERSTANDING, AND AGREEING TO COMPLY WITH THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT, AND THE REPRESENTATIVE OF _____ CONSULTING COMPANY IDENTIFIED BELOW IS AUTHORIZED TO SIGN CONTRACTS ON BEHALF OF SAID COMPANY

COMPANY: _____ SIGNATURE: _____

NAME: _____ TITLE: _____ DATE: _____



CONTRACT FOR PROFESSIONAL SERVICES (SAMPLE)

THIS AGREEMENT is made and entered into this ___ day of _____, 20___, by and between the Sierra Vista Metropolitan Planning Organization, 401 Giulio Cesare Avenue, Sierra Vista, Arizona 85635, a municipal corporation, organized and existing under and by virtue of the laws of the State of Arizona, hereinafter designated as SVMPO, and [Consultant Name and Address, State & ZIP], hereinafter designated as Consultant.

SPECIAL TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THE CONTRACT.

CONSULTANT, CONTRACTOR: The individual, partnership, or corporation awarded this Contract by the SVMPO.

CONTRACT: The legal agreement executed between the SVMPO, Arizona, and the Contractor, specifically SVMPO Contract No. [PROJECT NO; PROJECT TITLE].

MAY: Indicates something that is not mandatory but permissible.

SHALL, MUST: Indicates a mandatory requirement.

SHOULD: Indicates something that is recommended but not mandatory

SVMPO: The Sierra Vista Metropolitan Planning Organization, 401 Giulio Cesare Avenue, Sierra Vista, Arizona 85635.

WILL: Indicates an expression of intent, but is not binding.

2. TERMINATION OF CONTRACT.

2.1 This Contract may be terminated at any time by mutual written consent, or by the SVMPO, with or without cause, upon giving thirty (30) days written notice to the Contractor. The SVMPO at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the SVMPO shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the SVMPO before the effective date of termination.

2.2 The SVMPO reserves the right to cancel the whole or any part of this Contract due to failure of Contractor to carry out any term, promise, or condition of the Contract. The SVMPO will issue a written ten (10) day notice of default to Contractor for acting or failing to act in any of the following:

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

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

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2.2.3 In the opinion of the SVMPO, Contractor attempts to impose on the SVMPO, personnel, or materials, products, or workmanship which is of an unacceptable quality;

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

2.2.5 In the opinion of the SVMPO, Contractor fails to make progress in the performance of the requirements of the Contract and/or gives the SVMPO a positive indication that Contractor will not or cannot perform to the requirements of the Contract.

2.3 Each payment obligation of the SVMPO created hereby is conditioned upon the availability of City, State, and Federal Funds which are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the SVMPO and available for the continuance of services herein contemplated, the Contract period for the service may be terminated by the SVMPO at the end of the period for which funds are available. The SVMPO shall notify Contractor at the earliest possible time which service will or may be affected by a shortage of funds. No penalty shall accrue to the SVMPO in the event this provision is exercised, and the SVMPO shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

3. RECORDS.

Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies.

4. ARBITRATION.

It is understood and agreed that no provision of the Contract relating to arbitration or requiring arbitration shall apply to or be binding upon the SVMPO except by the SVMPO's express written consent given subsequent to the execution of the Contract. However, at the SVMPO's sole option, or by other means expressly approved by the SVMPO, disputes may be resolved through arbitration, the dispute shall be resolved as provided for in A.R.S. §12-1501 et. seq. Contractor shall continue to render the services required by this Contract without interruption, notwithstanding the provisions of this section.

5. INDEPENDENT CONTRACTOR.

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

5.2 Contractor understands that it is not entitled to compensation in the form of salaries, or to paid vacation or sick days by the SVMPO, and that such days do not accumulate for the use of same at a later date.

5.3 Contractor understands that the SVMPO will not provide any insurance coverage to the Contractor including workmen's compensation coverage.

6. EQUAL OPPORTUNITY.

The Contractor shall at all times abide by the equal opportunity provisions of the Civil Rights Act of 1964 as amended, Executive Order 11375, and as supplemented in Department of Labor Regulations 41 CFR Part 60, and of the rules, regulations, and relevant orders of the Secretary of Labor.

7. CONTRACT TERM.

The term of this Contract shall be as defined in solicitation, or through [FINAL OPTION END DATE], with the option to extend for up to X (#) OPTION periods, unless terminated, canceled, or extended as otherwise provided

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herein. It shall be the Contractor's responsibility to notify the Chief Procurement Officer within ninety (90) days of Contract expiration if Contractor desires to renew for a supplemental period.

8. PATENTS, COPYRIGHTS.

All services, information, computer program elements, reports, and other deliverables which may have a potential patent or copyright value and which are created under this Contract shall be the property of the SVMPO and shall not be used by the Contractor or any other person except with the prior written permission of the Chief Procurement Officer.

9. KEY PERSONNEL.

9.1 It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. The Contractor must agree to assign specific individuals to the key positions

9.2 The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the SVMPO.

9.3 If key personnel are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the SVMPO, and shall, subject to the concurrence of the SVMPO, replace such personnel with personnel of substantially equal ability and qualifications.

10. COMPENSATION AND METHOD OF PAYMENT.

10.1 In consideration of the performance of the services described in the Statement of Work, the SVMPO shall pay the Contractor the sum or amounts as set forth in the Consultant's **Cost Proposal, dated March 1, 2003**, herein referenced and made part of, and Contractor shall charge the SVMPO only in accordance with those same amounts.

10.2 The SVMPO will pay the Contractor following the submission of itemized invoice(s) for the services rendered. No payment shall be issued prior to receipt of material or service and correct invoice.

11. COMMENCEMENT OF WORK.

The Contractor shall work only after receiving the SVMPO's Notice to Proceed from an authorized City representative. The Contractor shall complete all work to the satisfaction of the SVMPO in accordance with the Statement of Work.

12. INSURANCE.

12.1 The Contractor agrees:

12.1.1 To obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this Contract. All policies will contain an endorsement providing that written notice be given to the SVMPO at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage on any policy.

12.1.2 The Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance policies shall include the SVMPO as an additional insured with respect to liability arising out of the performance of this Contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the SVMPO will be excess and not contributing.

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12.1.3 To provide and maintain minimum insurance limits as follows:

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Worker's Compensation Employer Liability	Statutory \$1,000,000
Commercial General Liability Insurance Including: (1) Premises and Operations (2) Product and Completed Operations (3) Blanket Contractual (4) Broad Form Property Damage (5) Personal Injury	\$1,000,000 Bodily Injury and Property Damage Combined Single Limit
Commercial Automobile Liability Insurance Including: (1) Owned (2) Non-Owned (3) Leased (4) Hired Vehicles	\$1,000,000 Bodily Injury and Property Damage Combined Single Limit
Professional Liability Insurance (Errors/Omissions) (Professional Services Only)	\$1,000,000 (minimum) (Combined Single Limit)

12.2 Contractor shall present to the SVMPO **written evidence** (Certification of Insurance) of compliance with all requirements of Section 12.1 above. Said evidence shall be to the SVMPO Chief Procurement Officer's satisfaction.

1. CERTIFICATION.

By signature in the offer section of the Offer and Acceptance page Consultant certifies:

1.1 The submission of the offer did not involve collusion or other anti-competitive practices.

1.2 The Consultant 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 response. Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the offer. Signing the offer with a false statement shall void the offer and any resulting contract, and may be subject to legal remedies provided by law.

1.3 The Consultant submitting the offer hereby certifies that the individual signing the proposal and/or Contract is an authorized agent for the Consultant and has the authority to bind the Consultant to the Contract.

2. GRATUITIES.

The SVMPO may, by written notice to the Contractor, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the SVMPO amending, or making of any determinations with respect to the performing of such Contract. In the event this Contract is canceled by the SVMPO pursuant to this provision, the SVMPO shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

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3. APPLICABLE LAW.

This Contract shall be governed by, and the SVMPO and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted by the State of Arizona, except as otherwise provided in this Contract or in laws pertaining specifically to the SVMPO. This Contract shall be governed by the law of the State of Arizona and suits pertaining to this Contract shall be brought only in Federal or State courts in the State of Arizona.

4. LEGAL REMEDIES.

All claims and controversies shall be subject to the Code of the SVMPO and Statutes of the State of Arizona.

5. CONTRACT.

The Contract shall be based upon the Request for Not-to-Exceed Proposal issued by the SVMPO and the offer submitted by the Contractor in response to the request. The Contract shall substantially conform to the terms and conditions, specifications and other requirements set forth within the text of the Request for Not-to-Exceed Proposal. The SVMPO reserves the right to clarify any contractual terms with the concurrence of the Contractor. However, any substantial non-conformity in the response, as determined by the SVMPO's Chief Procurement Officer, shall be deemed non-responsive and the offer shall be rejected. The Contract shall contain the entire agreement between the SVMPO and the Contractor relating to this requirement and shall prevail over any and all provisions agreements, contracts, proposals, negotiations, purchase orders or master agreements in any form.

6. CONTRACT AMENDMENTS.

This Contract shall be modified only by a written Contract Amendment signed by the Chief Procurement Officer and persons duly authorized to enter into contracts on behalf of the Contractor.

7. PROVISIONS REQUIRED BY LAW.

Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

8. SEVERABILITY.

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the invalid provision or application.

9. RELATIONSHIP OF PARTIES.

It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments shall not be withheld from a City payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

10. INTERPRETATION - PAROL EVIDENCE.

This Contract 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 this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

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11. ASSIGNMENT - DELEGATION.

No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the SVMPO, and no delegation of any duty of Contractor shall be made without prior written permission of the SVMPO's Chief Procurement Officer. The SVMPO shall not unreasonably withhold approval and shall notify the Contractor of the SVMPO's position within 15 days of receipt of written request by the Contractor.

12. SUBCONTRACTS.

No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/services specified herein without the advance written approval of the SVMPO's Chief Procurement Officer. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the Subcontractor were the Contractor referred to herein. The Contractor is responsible for Contract performance whether or not subcontractors are used. The SVMPO shall not unreasonably withhold approval and shall notify the Contractor of the SVMPO's position within 15 days of receipt of written request by the Contractor.

13. RIGHTS AND REMEDIES.

No provision in this document or in the Consultant's proposal shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of Contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services under the obligations imposed by this Contract or by law, shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

14. WARRANTIES.

Consultant warrants that all material or services delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or services specified and any inspection incidental thereto by the SVMPO, shall not alter or affect the obligations of the Contractor or the rights of the SVMPO under the foregoing warranties. Additional warranty requirements may be set forth in this document.

15. INDEMNIFICATION.

Consultant shall indemnify, defend, and hold harmless the SVMPO from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any reasonable attorney's fees and/or litigation expenses, which may be brought or made against any person, caused by, arising out of, or contributed to, in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of the Contractor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this agreement, or arising out of Worker's Compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of the Contractor and/or its subcontractors or claims under similar such laws or obligations. The Contractor's obligation under this section shall not extend to any liability caused by the sole negligence of the SVMPO or its employees.

16. OVERCHARGES BY ANTITRUST VIOLATIONS.

The SVMPO maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the SVMPO any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

17. FORCE MAJEURE.

17.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force

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Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence.

17.2 Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

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

18. RIGHT TO ASSURANCE.

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

19. ADVERTISING.

Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the SVMPO.

20. RIGHT TO INSPECT.

The SVMPO may, at reasonable times, and at the SVMPO's expense, inspect the place of business of a contractor or subcontractor which is related to the performance of any contract as awarded or to be awarded.

21. INSPECTION.

All material or service is subject to final inspection and acceptance by the SVMPO. Material or service failing to conform to the specifications of this Contract shall be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance shall conform to the cancellation clause set forth in this document.

22. EXCLUSIVE POSSESSION.

All services, information, computer program elements, reports and other deliverables which may be created under this Contract are the sole property of the SVMPO and shall not be used or released by the Contractor or any other person except with prior written permission of the SVMPO.

23. TITLE AND RISK OF LOSS.

The title and risk of loss of material or service shall not pass to the SVMPO until the SVMPO actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

24. NO REPLACEMENT OF DEFECTIVE TENDER.

Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender. Noncompliance shall conform to the cancellation clause set forth within this document.

CONTRACT [Project No; Project Title]

25. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH.**
Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute non-conforming materials. Delivery of non-conforming materials or a default of any nature, at the option of the SVMPO, shall constitute a breach of the Contract as a whole. Noncompliance shall conform to the cancellation clause set forth within this document.
26. **LIENS.**
All materials, services and other deliverables supplied to the SVMPO under this Contract shall be free of all liens other than the security interest held by the Contractor until payment in full is made by the SVMPO. Upon request of the SVMPO, the Contractor shall provide a formal release of all liens.
27. **PAYMENT.**
A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.
28. **LICENSES.**
Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the contractor as applicable to this Contract.
29. **PUBLIC RECORD.**
All proposals submitted in response to this request shall become the property of the SVMPO and shall become a matter of public record available for review subsequent to the award notification.
30. **TERMINATION BY THE CHIEF PROCUREMENT OFFICER.**
The SVMPO may cancel this Contract without penalty or further obligation pursuant to A.R.S §38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the SVMPO is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a consultant to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when written notice from the Chief Procurement Officer is received by the parties to this Contract, unless the notice specifies a later time.

CONTRACT [Project No; Project Title]

PRICING

Annual Fee for [Describe] Services: **SEE ATTACHED COST PROPOSAL DATED [DATE].**

Fee for One-time Fixed Asset Infrastructure Testing: \$_____.

Signature

Printed Name

Title

SAMPLE

CONTRACT [Project No; Project Title]

OFFER AND ACCEPTANCE

OFFER

TO THE SVMPO

The undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, statement of work, conditions, specifications, and amendments of this Contract and his undated Proposal.

Signature also certifies understanding and compliance with paragraph 1 of the SVMPO Standard Terms and Conditions.

State of Arizona Transaction (Sales) Privilege Tax

License No.: _____

Federal Employer Identification

No.: _____

Phone: _____

Company Name

Signature of Person Authorized to Sign Contract

Address Printed Name

City State Zip

Title

ACCEPTANCE OF OFFER

The offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached Contract and based upon the Not-to-Exceed Proposal, including all terms, conditions, specifications, statement of work, amendments, etc., and the Contractor's Offer as accepted by the SVMPO.

This Contract shall henceforth be referred to as Contract No. [Project No.; Project Name]. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this Contract until Contractor receives a formal Notice to Proceed, Purchase Order, or is otherwise directed to do so in writing by the undersigned.

SVMPO, a municipal corporation.

Awarded this ___ day of ____, 20__.

Attest:

Karen Lamberton
SVMPO Administrator

Jill Adams
Sierra Vista City Clerk
Acting as Fiscal Agent for SVMPO

Approved as to form this ___ day of _____, 20__

Nathan J. Williams
Sierra Vista City Attorney
Acting as Fiscal Agent for SVMPO

SIERRA VISTA MPO ON-CALL PRE-SUBMITTAL MEETING

APRIL 9, 2020 ON-CALL MEETING ATTENDEES



ATTENDEES AND CONTACT INFORMATION

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