Chandler · Arizona
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PURCHASING ITEM FOR COUNCIL AGENDA

1. Agenda Item Number: 29

2. Council Meeting Date: December 12, 2013

TO: **MAYOR & COUNCIL**

THROUGH: **CITY MANAGER**

3. Date Prepared: December 05, 2013

4. Requesting Department: Fire Department

5. SUBJECT: Purchase of Replacement Vehicles

6. RECOMMENDATION: Recommend award of Invitation For Bid (IFB) FA4-071-3316 for the purchase of vehicles from Berge Ford in an amount of $26,740.89 and PFVT Motors in an amount of $468,386.86 for a total amount of $495,127.75.

7. HISTORICAL BACKGROUND/DISCUSSION: The Fleet Advisory Committee (FAC) annually reviews vehicle replacement requests from multiple departments. The committee considers each vehicle's current tasking, maintenance history, reliability and projected cost to operate. The FAC is recommending the replacement of 20 vehicles.

8. EVALUATION PROCESS: On September 19, 2013, staff issued IFB FA4-071-3316 for the purchase of vehicles. The Bid was advertised and registered bidders were notified. All auto dealers in Chandler were notified and provided instructions on how to register as a supplier. The City received nine responses, including two from Chandler dealers. The bid included a total of 9 vehicle types for a total of 20 vehicles. Staff is recommending award to the low responsive responsible bidder for each type.

9. FINANCIAL IMPLICATIONS: Funds for the purchase of the vehicles are available in the following accounts:

Cost: $495,127.75

Fund Source:

Account No.	Fund Name	Program Name	Vehicles	Amount
101.4530.6310	General	Com Svc-Park Dev & Oper	1	$ 19,958.10
605.3850.6310	Water Operating	MUD-Water Quality	1	$ 27,784.54
615.3960.6310	Wastewater Operating	MUD-AWRF	1	$ 19,349.50
404.3700.6310	Vehicle Replacement	MUD-Solid Waste Svc	1	$ 19,434.29
404.3800.6310	Vehicle Replacement	MUD-Water Distribution	1	$ 30,747.56
404.3840.6310	Vehicle Replacement	MUD-Env Resources	1	$ 18,703.06
404.3860.6310	Vehicle Replacement	MUD-Water Sys Maint	2	$ 55,569.08
404.3900.6310	Vehicle Replacement	MUD-WW Collection	1	$ 30,747.56
404.3200.6310	Vehicle Replacement	C Mgr-Bldg & Facilities	1	$ 29,397.80
404.3025.6310	Vehicle Replacement	T&D-Capital Projects	1	$ 21,853.09
404.3300.6310	Vehicle Replacement	T&D-Streets	1	$ 30,330.29
404.3300.6310	Vehicle Replacement	T&D-Streets	1	$ 18,703.06
404.2030.6310	Vehicle Replacement	Police-Patrol	1	$ 23,209.02
404.2030.6310	Vehicle Replacement	Police-Criminal Invest	2	$ 38,014.72
404.2030.6310	Vehicle Replacement	Police-Criminal Invest	1	$ 28,358.37
404.2030.6310	Vehicle Replacement	Police-CIB Arson	1	$ 27,868.45
404.2030.6310	Vehicle Replacement	Police-CIB Arson	1	$ 28,358.37
404.2030.6310	Vehicle Replacement	Police-Community Svc	1	$ 26,740.89
			20	$495,127.75

10. PROPOSED MOTION: Move to approve award of Invitation For Bid (IFB) FA4-071-3316 for the purchase of vehicles from Berge Ford in an amount of $26,740.89 and PFVT Motors in an amount of $468,386.86 for a total amount of $495,127.75.

APPROVALS

11. Requesting Department James Johnson, Fleet Manager	**12. Department Head** Jeff Clark, Fire Chief
13. Procurement Officer Mike Mandt	**14. City Manager** Rich Dlugas

CITY OF CHANDLER PURCHASE CONTRACT
VEHICLES
AGREEMENT NO.: FD4-072-3316

THIS AGREEMENT is made and entered into this 26 day of November 2013, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Berge Ford an Arizona Corporation, hereinafter referred to as "CONTRACTOR".

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATION AND OPERATION:

1.1. Contract Administrator: CONTRACTOR shall act under the authority and approval of the Fleet Manager/designee (Contract Administrator), to provide the goods and merchandise required by this Contract.

1.2. Ordering Instructions: Authorization for purchases under the terms and conditions of this contract will be made only upon issuance of a CITY Purchase Order a City Procurement Card.

1.3. Ordering Process. Upon award of a contract by the City, any designated department may procure the specific product, equipment or material awarded by the issuance of a Contract Purchase Order to the appropriate CONTRACTOR. Each Contract Purchase Order must cite the correct Chandler contract number.

2. GOODS AND MERCHANDISE TO BE PROVIDED: CONTRACTOR shall provide to CITY the goods and merchandise listed on Exhibit A, attached hereto and made a part hereof by reference, at the prices listed on Exhibit A

2.1. Safety Standards: All items supplied pursuant to this contract must comply with the current applicable federal state and local standards.

2.2. Non-Discrimination. The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.3. Product Discontinuance (Categories): In the event that a required product or model is discontinued by the manufacturer, CITY at its sole discretion may allow CONTRACTOR to provide a substitute for the discontinued item. CONTRACTOR shall request permission to substitute a new product or model and provide the following:

A formal announcement from the manufacturer that the product or model has been discontinued.

Documentation from the manufacturer that names the replacement product or model.

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

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

If requested by CITY, CONTRACTOR shall provide a sample of the replacement product.

2.4. **Licenses:** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by CONTRACTOR as applicable to this contract.

2.5. **Contract Orders:** CONTRACTOR shall, in accordance with all terms and conditions of this Contract, fully perform and shall be obligated to comply with all contract orders received by CONTRACTOR prior to the expiration or termination hereof, unless otherwise directed in writing by the Contract Administrator, including, without limitation, all contract orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

2.6. **Advertising, Publishing and Promotion of Contract:** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

2.7. **Compliance With Applicable Laws:** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.

2.8. **Assignment:** Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.

2.9. **Amendments:** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.

2.10. **Payment.** A separate invoice shall be issued for each shipment of goods or materials, and no payment will be issued prior to receipt of goods or materials and receipt of a correct invoice.

2.11. **Estimated Quantities.** The quantities shown on Exhibit A (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. CITY reserves the right to increase or decrease the quantities actually required.

2.12. **Catalogs/Contract Price Listing.** As applicable, the CONTRACTOR(s) shall be required to furnish to all requesting departments catalogs at no cost, which will outline contract prices.

2.13. **Current Models.** It is CITY's intent to procure materials of the latest technology. All materials bid must be in current production and parts must be available for a minimum of five (5) years from bid date.

2.14. **Current Products.** All products offered in response to this solicitation shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

2.15. New/Current Products. All goods, equipment, materials, parts and other components supplied pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended.

2.16. Prior to up-fitting any vehicle the Contractor will call the Fleet Manager to determine if a pre-build meeting is necessary.

3. WARRANTIES:

3.1. Liens: CONTRACTOR warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

3.2. Quality: Unless otherwise modified elsewhere in these terms and conditions, CONTRACTOR warrants that, for one year after acceptance by CITY of the materials, they shall be:

3.2.1. Of a quality to pass without objection in the trade under the Contract description;

3.2.2. Fit for the intended purposes for which the materials are used;

3.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

3.2.4. Adequately contained, packaged and marked as the Contract may require; and

3.2.5. Conform to the written promises or affirmations of fact made by CONTRACTOR.

3.2.6. All up-fitting shall be done in a professional manor with attention given to mounting, finish and ergonomics. And shall include all items considered standard equipment.

3.3. Fitness: CONTRACTOR warrants that any material supplied to CITY shall fully conform to all requirements of the Contract and all representations of CONTRACTOR, and shall be fit for all purposes and uses required by the Contract.

3.4. Inspection/Testing: The warranties set forth in Section 3 herein are not affected by inspection or testing of or payment for the materials by CITY.

3.5. Warranty (Equipment). All equipment supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of three years or 36,000 miles whichever comes first from the date of acceptance by CITY. Any defects of design, workmanship, or materials that would result in non-compliance with the Contract specifications shall be fully corrected by CONTRACTOR (including parts and labor) without cost to CITY. The written warranty shall be included with the delivered products to the using Department.

4. ACCEPTANCE AND DOCUMENTATION: All goods are subject to final inspection and acceptance by CITY. Material failing to meet the requirements of this Contract will be held at CONTRACTOR's risk and may be returned to CONTRACTOR. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of CONTRACTOR. CITY may elect to do any or all of the following: Waive the non-conformance; stop the work immediately; or bring the material into compliance. Defective Products. All defective products shall be replaced and exchanged by CONTRACTOR. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the CONTRACTOR. All replacement products must be received by CITY within seven (7) days of initial notification

4.1. **Records.** The CONTRACTOR shall retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

4.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, CONTRACTOR's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, CONTRACTOR shall produce a legible copy of any or all such records.

4.3. **Delivery.** Delivery of vehicle with all required upfitting shall be made within the time listed in Exhibit A which is specified in calendar days after receipt of a Contract Purchase Order (ARO). Further all vehicles shall be delivered to the City within 30 days of delivery to the dealer.

5. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed twenty six thousand seven hundred and forty and 89/100 Dollars ($26,740.89) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit A, attached hereto and made a part hereof by reference.

5.1. **Pricing:** Prices stated include all freight, insurance, warranty costs, and any other applicable costs.

5.2. **Payment:** A separate invoice shall be issued for each shipment of goods or merchandise, and no payment will be issued prior to receipt of material and a correct invoice. All billing invoices shall include delivery time, purchase order number, and contractual payment terms. Items are to be identified by the name, model number, contract number, line item number, and serial number if applicable. Payment. CONTRACTOR shall submit to the issuing department, after completion of the task or combination of tasks listed by the issuing departments task order, a statement of charges for the work completed under that task order, in conformance with the pricing schedule of this contract, the issuing department shall process the claim for prompt payment in accordance with the standard operating procedures of CITY.

5.3. **Delivery:** All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. CONTRACTOR shall retain title and control of all goods until they are delivered and accepted by CITY. All risk of transportation and all related charges shall be the responsibility of CONTRACTOR. All claims for visible or concealed damage shall be filed by CONTRACTOR. CITY will notify CONTRACTOR promptly of any damaged goods and shall assist CONTRACTOR in arranging for inspection.

5.4. **Risk of Loss:** CONTRACTOR shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with CONTRACTOR regardless of receipt.

5.5. **Taxes:** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.

5.6. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless said form is not required by law.

5.7. **Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its products concurrent with a published price reduction made to other customers.

6. **TERM:** This contract is for a single purchase of the items listed in Exhibit A. The City may purchase additional units if mutually agreeable to both parties.

7. **USE OF THIS CONTRACT:**

7.1. The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like goods and materials from another source to secure significant cost savings or when timely delivery cannot be met by CONTRACTOR.

7.2. **Emergency Purchases:** CITY reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7.3. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the contracted CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five (5) times during a month, CONTRACTOR shall submit a full set of fingerprints to the school district in accordance with A.R.S. 15-512 of each person or employee who may provide such service. The District shall conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all CONTRACTORS, sub-CONTRACTORS or vendors and their employees for which fingerprints are submitted to the District. Additionally, the CONTRACTOR shall comply with the governing body fingerprinting policies of each individual school district/public entity. CONTRACTOR, sub-contractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The CITY shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

8. **CITY'S CONTRACTUAL REMEDIES:**

8.1. **Right to Assurance:** If CITY in good faith has reason to believe that CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that CONTRACTOR give a written assurance of intent to perform. Failure by CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at CITY's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. **Non-exclusive Remedies:** The rights and the remedies of CITY under this Contract are not exclusive.

8.3. **Nonconforming Tender:** Goods, materials or merchandise supplied under this Contract shall fully comply with this Contract and the specifications included herein. The delivery of goods, materials or merchandise or any portion thereof that do not fully comply constitutes a breach of contract. On delivery of nonconforming goods, materials or merchandise, CITY may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.4. **Right of Offset:** CITY shall be entitled to offset against any sums due to CONTRACTOR, any expenses or costs incurred by CITY, or damages assessed by CITY concerning CONTRACTOR's non-conforming performance or failure to perform the Contract, including costs and damages incurred by CITY.

9. **TERMINATION:**

9.1 **Termination for Convenience:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORs to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

9.2 **Termination for Cause:** City may terminate this Agreement for Cause:

Upon the occurrence of any one or more of the following events:

1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
2) If CONTRACTOR is adjudged a bankrupt or insolvent;
3) If CONTRACTOR makes a general assignment for the benefit of creditors;
4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR 'S property;
5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.

9.3. **Termination for Misrepresentation.** CITY may, upon written notice, terminate this Contract for any attempt by CONTRACTOR to represent any goods or materials not specifically awarded as being under contract with the CITY of Chandler. Any such action is subject to the legal and contractual remedies available to CITY inclusive of, but not limited to, contract cancellation, suspension and/or debarment of CONTRACTOR.

9.4. **Cancellation for Conflict of Interest:** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of CITY is or becomes at any time while the Contract or an 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. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

9.5. **Gratuities:** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by the CONTRACTOR or a representative of the CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the CONTRACTOR.

9.6. **Suspension or Debarment:** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that the 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 Sub-CONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If the CONTRACTOR becomes suspended or debarred, the CONTRACTOR shall immediately notify CITY.

9.7. **Continuation of Performance Through Termination:** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

9.8. **No Waiver:** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

9.9. **Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.

10. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

11. **DISPUTE RESOLUTION:**

11.1 **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

11.2 **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

11.4 Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.

12. INDEMNIFICATION: To the fullest extent permitted by law, CONTRACTOR, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees.

13. NOTICES: All notices or demands required to be given pursuant to the terms of this Contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY

Department:	Fire Department
Contact:	James Johnson
Mailing Address:	PO Box 4008 MS 801
Physical Address:	151 E Boston St
City, State, Zip	Chandler AZ 85225
Phone:	480-782-2132
FAX:	480-782-2150

In the case of the CONTRACTOR

Firm Name:	Berge Ford
Contact:	Richard Lewis
Address:	460 East Auto Center Drive
City, State, Zip	Mesa, AZ 85204
Phone:	480-497-7527
FAX:	480-497-7625

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. GENERAL TERMS:

14.1. Entire Agreement: This Contract, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Contract may not be modified or amended except by a written document, signed by authorized representatives or each party.

14.2. Arizona Law: This Contract shall be governed and interpreted according to the laws of the State of Arizona.

14.3. **Assignment:** Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.

14.4. **Amendments:** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.

14.5. **Conflict of Interest:**

14.5.1 **No Kickback:** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of City Council or any employee of CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to CITY.

14.5.2 **Kickback Termination:** CITY may cancel this Contract, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of CITY'S departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a CONTRACTOR to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from CITY is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. §38-511).

14.5.3 **No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

14.6. **Independent CONTRACTOR:** The CONTRACTOR under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

14.7. **No Parole Evidence:** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

14.8. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

14.9. **Award of Contract Contingent on Sale and Delivery of Bonds.** As the sole source for payment of the amounts due under the Contract, CITY will sell bonds and deposit the bond funds in a special fund to be used thereafter to pay progress payments and incidental

expenses. To guard against the possibility that CITY will be unable to sell or deliver the bonds for any reason, the award of the Contract and the performance by CITY of its obligations under the Contract is conditioned upon the actual sale and delivery of CITY's bonds in an amount which is sufficient to produce the amount required to meet the payments due under the Contract. CITY reserves the right to rescind the award of the Contract and terminate the Contract, if executed, without incurring expenses or liability for such termination or rescission if it is unable to provide funding through the sale of its bonds for any reasons. Notwithstanding an award of the Contract, CONTRACTOR should not incur any expense pursuant to this Contract until such time as CONTRACTOR has received notice from CITY that bond funds are held by CITY in an amount sufficient to pay the amounts due under the Contract.

14.10. Ownership. All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this ____ day of _____, 2013.

FOR THE CITY OF CHANDLER

_____
Mayor

FOR THE CONTRACTOR

By: _____
Signature

Approved as to form:

_____
City Attorney

ATTEST: If Corporation

_____
Secretary

ATTEST:

_____
City Clerk

SEAL

EXHIBIT A
PRICING AND SPECIFICATIONS FD4-072-3316

Line Item	Description	PD, Community Services	Unit Cost	Extended Cost
1	15 Passenger Van, **Color White**	1	$ 23,392.00	$ 23,392.00
2	Side door, Sliding	1		$ -
3	Low tire pressure indicator	1		$ -
4	Four wheel ABS brake system	1		$ -
5	Electronic Stability Control	1		$ -
6	Automatic transmission	1		$ -
7	Power windows	1	$ 971.00	$ 971.00
8	Power door locks, with speed sensing auto lock	1		$ -
9	Tilt telescoping steering wheel	1		$ -
10	Power adjustable mirrors, driver and passenger side	1	$ 103.00	$ 103.00
11	Air conditioning, multiple unit highest available as a vehicle manufacturer option (no roof mount condensers)	1		$ -
12	4 keys with key fobs if equipped	1	$ 38.00	$ 38.00
13	Window tint, darkest legal approved	1	$ 140.00	$ 240.00
14	Carpet delete	1		$ -
15	Warranty Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1		$ -
16	Must include all standard equipment. List other options included that are not specified	1		$ -
	Total Vehicle price with options	1		$ 24,744.00
	Tax _____%		8.05%	$ 1,991.89
	Tire Tax	1	$ 5.00	$ 5.00
	Grand Total Vehicle and Tax			$ 26,740.89
	Replacing	21214		

Provide Order cutoff Date_____	TBD
Vehicle Estimated Delivery time from receipt of order_____Days	100
Upfitting Time after receipt of vehicle _____days (max 30 days)	5
Total delivery time vehicle and upfiting from receipt of order _____Days	105
Warranty Time/Miles _____	3years/36,000 mi

CITY OF CHANDLER PURCHASE CONTRACT
VEHICLES
AGREEMENT NO.: FD4-072-3316

THIS AGREEMENT is made and entered into this 4 day of December, 2013, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and PFVT Motors an Arizona Corporation, hereinafter referred to as "CONTRACTOR".

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATION AND OPERATION:

1.1. Contract Administrator: CONTRACTOR shall act under the authority and approval of the Fleet Manager/designee (Contract Administrator), to provide the goods and merchandise required by this Contract.

1.2. Ordering Instructions: Authorization for purchases under the terms and conditions of this contract will be made only upon issuance of a CITY Purchase Order a City Procurement Card.

1.5. Ordering Process. Upon award of a contract by the City, any designated department may procure the specific product, equipment or material awarded by the issuance of a Contract Purchase Order to the appropriate CONTRACTOR. Each Contract Purchase Order must cite the correct Chandler contract number.

2. GOODS AND MERCHANDISE TO BE PROVIDED: CONTRACTOR shall provide to CITY the goods and merchandise listed on Exhibit A, attached hereto and made a part hereof by reference, at the prices listed on Exhibit A

2.1. Safety Standards: All items supplied pursuant to this contract must comply with the current applicable federal state and local standards.

2.2. Non-Discrimination. The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.3. Product Discontinuance (Categories): In the event that a required product or model is discontinued by the manufacturer, CITY at its sole discretion may allow CONTRACTOR to provide a substitute for the discontinued item. CONTRACTOR shall request permission to substitute a new product or model and provide the following:

A formal announcement from the manufacturer that the product or model has been discontinued.

Documentation from the manufacturer that names the replacement product or model.

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

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

If requested by CITY, CONTRACTOR shall provide a sample of the replacement product.

2.4. **Licenses:** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by CONTRACTOR as applicable to this contract.

2.5. **Contract Orders:** CONTRACTOR shall, in accordance with all terms and conditions of this Contract, fully perform and shall be obligated to comply with all contract orders received by CONTRACTOR prior to the expiration or termination hereof, unless otherwise directed in writing by the Contract Administrator, including, without limitation, all contract orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

2.6. **Advertising, Publishing and Promotion of Contract:** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

2.7. **Compliance With Applicable Laws:** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.

2.8. **Assignment:** Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.

2.9. **Amendments:** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.

2.10. **Payment.** A separate invoice shall be issued for each shipment of goods or materials, and no payment will be issued prior to receipt of goods or materials and receipt of a correct invoice.

2.11. **Estimated Quantities.** The quantities shown on Exhibit A (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. CITY reserves the right to increase or decrease the quantities actually required.

2.12. **Catalogs/Contract Price Listing.** As applicable, the CONTRACTOR(s) shall be required to furnish to all requesting departments catalogs at no cost, which will outline contract prices.

2.13. **Current Models.** It is CITY's intent to procure materials of the latest technology. All materials bid must be in current production and parts must be available for a minimum of five (5) years from bid date.

2.14. **Current Products.** All products offered in response to this solicitation shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

2.15. **New/Current Products.** All goods, equipment, materials, parts and other components supplied pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended.

2.16. Prior to up-fitting any vehicle the Contractor will call the Fleet Manager to determine if a pre-build meeting is necessary.

3. **WARRANTIES:**

3.1. **Liens:** CONTRACTOR warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

3.2. **Quality:** Unless otherwise modified elsewhere in these terms and conditions, CONTRACTOR warrants that, for one year after acceptance by CITY of the materials, they shall be:

3.2.1. Of a quality to pass without objection in the trade under the Contract description;

3.2.2. Fit for the intended purposes for which the materials are used;

3.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

3.2.4. Adequately contained, packaged and marked as the Contract may require; and

3.2.5. Conform to the written promises or affirmations of fact made by CONTRACTOR.

3.2.6. All up-fitting shall be done in a professional manor with attention given to mounting, finish and ergonomics. And shall included all items considered standard equipment.

3.3. **Fitness:** CONTRACTOR warrants that any material supplied to CITY shall fully conform to all requirements of the Contract and all representations of CONTRACTOR, and shall be fit for all purposes and uses required by the Contract.

3.4. **Inspection/Testing:** The warranties set forth in Section 3 herein are not affected by inspection or testing of or payment for the materials by CITY.

3.5. **Warranty (Equipment).** All equipment supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of three years or 36,000 miles whichever comes first from the date of acceptance by CITY. Any defects of design, workmanship, or materials that would result in non-compliance with the Contract specifications shall be fully corrected by CONTRACTOR (including parts and labor) without cost to CITY. The written warranty shall be included with the delivered products to the using Department.

4. **ACCEPTANCE AND DOCUMENTATION:** All goods are subject to final inspection and acceptance by CITY. Material failing to meet the requirements of this Contract will be held at CONTRACTOR's risk and may be returned to CONTRACTOR. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of CONTRACTOR. CITY may elect to do any or all of the following: Waive the non-conformance; stop the work immediately; or bring the material into compliance. Defective Products. All defective products shall be replaced and exchanged by CONTRACTOR. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the CONTRACTOR. All replacement products must be received by CITY within seven (7) days of initial notification

4.1. **Records.** The CONTRACTOR shall retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

4.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, CONTRACTOR's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, CONTRACTOR shall produce a legible copy of any or all such records.

4.3. **Delivery.** Delivery of vehicle with all required upfitting shall be made within the time listed in Exhibit A which is specified in calendar days after receipt of a Contract Purchase Order (ARO). Further all vehicles shall be delivered to the City within 30 days of delivery to the dealer.

5. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed four hundred sixty eight thousand three hundred and eighty six and 83/100 dollars ($468,386.83) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit A, attached hereto and made a part hereof by reference.

5.1. **Pricing:** Prices stated include all freight, insurance, warranty costs, and any other applicable costs.

5.2. **Payment:** A separate invoice shall be issued for each shipment of goods or merchandise, and no payment will be issued prior to receipt of material and a correct invoice. All billing invoices shall include delivery time, purchase order number, and contractual payment terms. Items are to be identified by the name, model number, contract number, line item number, and serial number if applicable. Payment. CONTRACTOR shall submit to the issuing department, after completion of the task or combination of tasks listed by the issuing departments task order, a statement of charges for the work completed under that task order, in conformance with the pricing schedule of this contract, the issuing department shall process the claim for prompt payment in accordance with the standard operating procedures of CITY.

5.3. **Delivery:** All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. CONTRACTOR shall retain title and control of all goods until they are delivered and accepted by CITY. All risk of transportation and all related charges shall be the responsibility of CONTRACTOR. All claims for visible or concealed damage shall be filed by CONTRACTOR. CITY will notify CONTRACTOR promptly of any damaged goods and shall assist CONTRACTOR in arranging for inspection.

5.4. **Risk of Loss:** CONTRACTOR shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with CONTRACTOR regardless of receipt.

5.5. **Taxes:** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.

5.6. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless said form is not required by law.

5.7. **Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its products concurrent with a published price reduction made to other customers.

6. **TERM:** This contract is for a single purchase of the items listed in Exhibit A. The City may purchase additional units if mutually agreeable to both parties.

7. **USE OF THIS CONTRACT:**

7.1. The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like goods and materials from another source to secure significant cost savings or when timely delivery cannot be met by CONTRACTOR.

7.2. **Emergency Purchases:** CITY reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7.3. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the contracted CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five (5) times during a month, CONTRACTOR shall submit a full set of fingerprints to the school district in accordance with A.R.S. 15-512 of each person or employee who may provide such service. The District shall conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all CONTRACTORS, sub-CONTRACTORS or vendors and their employees for which fingerprints are submitted to the District. Additionally, the CONTRACTOR shall comply with the governing body fingerprinting policies of each individual school district/public entity. CONTRACTOR, sub-contractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The CITY shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

8. CITY'S CONTRACTUAL REMEDIES:

8.1. **Right to Assurance:** If CITY in good faith has reason to believe that CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that CONTRACTOR give a written assurance of intent to perform. Failure by CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at CITY's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. **Non-exclusive Remedies:** The rights and the remedies of CITY under this Contract are not exclusive.

8.3. **Nonconforming Tender:** Goods, materials or merchandise supplied under this Contract shall fully comply with this Contract and the specifications included herein. The delivery of goods, materials or merchandise or any portion thereof that do not fully comply constitutes a breach of contract. On delivery of nonconforming goods, materials or merchandise, CITY may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.4. **Right of Offset:** CITY shall be entitled to offset against any sums due to CONTRACTOR, any expenses or costs incurred by CITY, or damages assessed by CITY concerning CONTRACTOR's non-conforming performance or failure to perform the Contract, including costs and damages incurred by CITY.

9. TERMINATION:

9.1 **Termination for Convenience:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORs to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

9.2 Termination for Cause: City may terminate this Agreement for Cause:

Upon the occurrence of any one or more of the following events:

1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
2) If CONTRACTOR is adjudged a bankrupt or insolvent;
3) If CONTRACTOR makes a general assignment for the benefit of creditors;
4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR 'S property;
5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.

9.3. Termination for Misrepresentation. CITY may, upon written notice, terminate this Contract for any attempt by CONTRACTOR to represent any goods or materials not specifically awarded as being under contract with the CITY of Chandler. Any such action is subject to the legal and contractual remedies available to CITY inclusive of, but not limited to, contract cancellation, suspension and/or debarment of CONTRACTOR.

9.4. Cancellation for Conflict of Interest: Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of CITY is or becomes at any time while the Contract or an 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. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

9.5. Gratuities: CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by the CONTRACTOR or a representative of the CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the CONTRACTOR.

9.6. Suspension or Debarment: CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that the 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 Sub-CONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If the CONTRACTOR becomes suspended or debarred, the CONTRACTOR shall immediately notify CITY.

9.7. Continuation of Performance Through Termination: The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

9.8. No Waiver: Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

9.9. Availability of Funds for the next Fiscal Year. Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may

arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.

10. FORCE MAJEURE: Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

11. DISPUTE RESOLUTION:

11.1 Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

11.2 Jurisdiction and Venue. The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

11.4 Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.

12. INDEMNIFICATION: To the fullest extent permitted by law, CONTRACTOR, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees.

13. NOTICES: All notices or demands required to be given pursuant to the terms of this Contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY	
Department:	Fire Department
Contact:	James Johnson
Mailing Address:	PO Box 4008 MS 801
Physical Address:	151 E Boston Street
City, State, Zip	Chandler AZ, 85225
Phone:	480-782-2132
FAX:	480-782-2150

In the case of the CONTRACTOR	
Firm Name:	PFVT Motors Inc.
Contact:	Chad Welsh
Address:	9130 West Bell Road
City, State, Zip	Peoria, AZ 85382
Phone:	623-261-0570
FAX:	480-393-5536

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. GENERAL TERMS:

14.1. Entire Agreement: This Contract, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Contract may not be modified or amended except by a written document, signed by authorized representatives or each party.

14.2. Arizona Law: This Contract shall be governed and interpreted according to the laws of the State of Arizona.

14.3. Assignment: Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.

14.4. Amendments: The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.

14.5. Conflict of Interest:

14.5.1 No Kickback: CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of City Council or any employee of CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to CITY.

14.5.2 Kickback Termination: CITY may cancel this Contract, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of CITY'S departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a CONTRACTOR to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from CITY is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. §38-511).

14.5.3 No Conflict: CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

14.6. Independent CONTRACTOR: The CONTRACTOR under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

14.7. No Parole Evidence: This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

14.8. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

14.9. Ownership. All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 4th day of December, 2013.

FOR THE CITY OF CHANDLER

Mayor

FOR THE CONTRACTOR

By: Signature

ATTEST:

City Clerk

SEAL

ATTEST: If Corporation

Secretary

Approved as to form:

City Attorney

EXHIBIT A
PRICING AND SPECIFICATIONS FD4-072-3316

Line Item	Description	PD Crim Inv	Unit Cost	Extended Cost
1	Mid size passenger vehicle (Fusion) per EPA classification, designed for four adult passengers Ford Fusion, Chevrolet Malibu or equal. **Colors TBD at time of order**	2		
2	Must meet Insurance Institute for Highway Safety Top Safety Pick for the vehicle's model year or National Highway Traffic Safety Administration 2011 and newer model overall five star crash test rating	2		
4	Low tire pressure indicator	2		
5	Four wheel ABS brake system	2		
6	Electronic Stability Control	2		
7	Automatic transmission	2		
8	Bucket Seats	2		
9	Cloth Seats	2		
10	Folding or split rear seats	2		
11	Height adjustable front seat belts	2		
12	Power windows	2		
13	Power door locks, with speed sensing auto lock	2		
14	Tilt telescoping steering wheel	2		
15	Power adjustable mirrors, driver and passenger side	2		
16	Air conditioning	2		
17	4 keys with key fobs if equipped	2		
18	Window tint, darkest legal approved	2		
19	Floor mats	2		
20	12 volt power receptacle mounted in front	2		
21	Warranty Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	2		
22	Must include all standard equipment. List other options included that are not specified	2		
	Total vehicle price with options	2	$17,578.50	$35,157.00
	Tire Tax	2	$5.00	$10.00
	Tax _____%		8.10%	$2,847.72
	Grand Total Vehicle and Tax			$ 38,014.72

Replaces 21270

Provide Order cutoff Date TBD

Vehicle Estimated Delivery time from receipt of order_____Days 120

Warranty Time/Miles _____ 3yrs/ 36,000

Line Item	Description	PD Patrol	Unit Cost	Extended Cost
1	Ford Escape. **Color TBD at time of order**	1		
2	Must meet Insurance Institute for Highway Safety Top Safety Pick for the vehicle's model year or National Highway Traffic Safety Administration 2011 and newer model overall five star crash test rating	1		
3	Low tire pressure indicator	1		
4	Four wheel ABS brake system	1		
5	Electronic Stability Control	1		
6	Automatic transmission	1		
7	Bucket Seats	1		
8	Cloth Seats	1		
9	Folding or split rear seats	1		
10	Height adjustable front seat belts	1		
11	Power windows	1		
12	Power door locks, with speed sensing auto lock	1		
13	Tilt telescoping steering wheel	1		
14	Power adjustable mirrors, driver and passenger side	1		
15	Air conditioning	1		
16	4 keys with key fobs if equipped	1		
17	Window tint, darkest legal approved	1		
18	Floor mats	1		
19	12 volt power receptacle for driver	1		
20	**Warranty** Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1		
21	Must include all standard equipment. List other options included that are not specified	1		
	Total Vehicle with Options	1	$ 19,409.50	$ 19,409.50
	Up-fitting			
1	Escape Base	1	$ 489.00	$ 489.00
2	Side Mount Support Arm C-HDM-401	1		$ -
3	Swing Arm Slide Out, Tilt/Swivel C-MD-102	1		$ -
4	8.5" Telescoping Pole C-HDM-202	1		$ -
5	Soundoff Corner LED lights, ELUC2S010J (Headlights and Taillights)	5	$ 125.00	$ 625.00
6	Soundoff 12 LED ENFSGS3J (grille mount)	2	$ 104.22	$ 208.44
7	Soundoff Single Deck 12 LED ENFSGS3J (Rear Window)	2	$ 104.22	$ 208.44
8	Labor to install up fit	1	$ 400.00	$ 400.00
9	**Power Tamer**	1	$ 124.95	$ 124.95
	Total Upfitting	1	$ 1,680.89	$ 2,055.83
	Total Vehicle and Upfitting			$ 21,465.33
	Tire Tax	1	$ 5.00	$ 5.00

	Tax ____%		8.10%	$ 1,738.69
	Grand Total Vehicle, Upfit and Tax			$ 23,209.02

Replaces 06846

Provide Order cutoff Date_____	TBD
Vehicle Estimated Delivery time from receipt of order_____Days	120
Upfitting Time after receipt of vehicle _____days (max 30 days)	30
Total delivery time vehicle and upfiting from receipt of order _____Days	150
Warranty Time/Miles _____	3yrs/ 36,000

Line Item	Description	Parks N-VRP	Unit Cost	Extended Cost
1	Full Size, 1/2 ton pick up truck, Regular Cab, LWB, Ford F-150 or equal. Color White	1		
2	Automatic transmission	1		
3	Bench or Split bench cloth seat	1		
4	Vinyl Floor	1		
5	Air Conditioning	1		
6	Power Windows	1		
7	Power Door Locks	1		
8	4 keys with key fobs if equipped	1		
9	12 volt power receptacle mounted in front	1		
10	Towing Package	1		
11	Dark window tint	1		
12	Warranty Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1		
13	Must include all standard equipment. List other options included that are not specified	1		
	Total vehicle price with options	1	$16,765.00	$ 16,765.00
	Up-fitting			
1	Light bar, Amber, LED, Code 3 21TRPL52-C39993 w/Controller and Mounting Kit	1	$825.00	$ 825.00
2	In bed Tool Box Weather Guard Model 115-3-01 or equivalent	1	$598.00	$ 598.00
3	Labor to install up-fit	1	$270.00	$ 270.00
	Total Up-fitting			$ 1,693.00
	Total Vehicle and Up-fitting			$ 18,458.00
	Tire Tax	1	$5.00	$ 5.00
	Tax _____%		8.10%	$ 1,495.10
	Grand Total Vehicle, Up-fitting and Tax			$ 19,958.10

Provide Order cutoff Date_____	TBD
Vehicle Estimated Delivery time from receipt of order_____Days	120
Upfitting Time after receipt of vehicle _____days (max 30 days)	30
Total delivery time vehicle and upfiting from receipt of order _____Days	150
Warranty Time/Miles _____	3yr/36,000 mi

Line Item	Description	MUD, Env Resource	T&D, Streets	MUD, SWS	MUD Water Quality **NON VRP**	Total	Unit Cost	Extended Cost
1	Full Size, 1/2 ton pick up truck, Regular Cab, SWB, Ford F-150 or equal. **Color White**	1	1	1	1	4		
2	Automatic transmission	1	1	1	1	4		
3	Bench or Split bench cloth seat	1	1	1	1	4		
4	Vinyl Floor	1	1	1	1	4		
5	Air Conditioning	1	1	1	1	4		
6	Power Windows	1	1	1	1	4		
7	Power Door Locks	1	1	1	1	4		
8	4 keys with key fobs if equipped	1	1	1	1	4		
9	12 volt power receptacle mounted in front	1	1	1	1	4		
10	Dark window tint	1	1	1	1	4		
11	**Warranty** Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1	1	1	1	4		
12	Must include all standard equipment. List other options included that are not specified	1	1	1	1	4		
	Total vehicle price with options	1	1	1	1	4	$16,202.00	$64,808.00
	Up-fitting							
1	Light bar, Amber, LED, Code 3 21TRPL52-C39993 w/Controller and Mounting Kit	1	1	1	1	4	$825.00	$3,300.00
2	In bed Tool Box Weather Guard Model 115-3-01 or equivalent				1	1	$598.00	$ 598.00
3	Remove Eagle Lift- Model # 38x60 lift gate and reinstall on new vehicle donors vehicle is 21370: 2001 Silverado 1GCEC14V61Z230874			1		1	$676.44	$676.44
4	Labor to install up-fit	1	1	1	1	4	$270.00	$ 1,080.00
	Total Up-fitting					4		$ 5,654.44

	Total Vehicle and Up-fitting							$ 70,462.44
	Tax _____%						8.10%	$5,707.46
	Tire Tax					4	$5.00	$20.00
	Grand Total Vehicle, Up-fitting and Tax							$76,189.90
	Option Install new 1000# capacity lift gate			1		1		
	Replaces	04930	21336	21370				
	Unit Cost per vehicle for upfitting labor							

Provide Order cutoff Date_____ TBD

Vehicle Estimated Delivery time from receipt of order_____Days 120

Upfitting Time after receipt of vehicle _____days (max 30 days) 30

Total delivery time vehicle and upfiting from receipt of order _____Days 150

Warranty Time/Miles _____ 3yrs/36,000 mi

Line Item	Description	T&D, Capt Projects	Total	Unit Cost	Extended Cost
1	Full Size, 1/2 ton pick up truck, Extended Cab, SWB, Ford F-150 or equal. **Color White**	1	1		
2	Automatic transmission	1	1		
3	Bench or Split bench cloth seat	1	1		
4	Vinyl Floor	1	1		
5	Air Conditioning	1	1		
6	Power Windows	1	1		
7	Power Door Locks	1	1		
8	4 keys with key fobs if equipped	1	1		
9	12 volt power receptacle mounted in front	1	1		
10	Towing Package	1	1		
11	Dark window tint	1	1		
12	**Warranty** Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1	1		
13	Must include all standard equipment. List other options included that are not specified	1	1		
	Total vehicle price with options	1	1	$ 18,518.00	$ 18,518.00
	Up-fitting				
1	Light bar, Amber, LED, Code 3 21TRPL52-C39993 w/Controller and Mounting Kit	1	1	$ 825.00	$ 825.00
2	In bed Tool Box Weather Guard Model 115-3-01 or equivalent	1	1	$ 598.00	$ 598.00
3	Labor to install up-fit	1	1	$ 270.00	$ 270.00
	Total Up-fitting	1	1	$ 1,693.00	$ 1,693.00
	Total Vehicle and Up-fitting				$

					20,211.00
	Tire Tax		1	$ 5.00	$ 5.00
	Tax _____%			8.10%	$ 1,637.09
	Grand Total Vehicle, Up-fitting and Tax				$ 21,853.09

Replaces 04357

Provide Order cutoff Date_____	TBD
Vehicle Estimated Delivery time from receipt of order_____Days	120
Upfitting Time after receipt of vehicle _____days (max 30 days)	30
Total delivery time vehicle and upfiting from receipt of order _____Days	150
Warranty Time/Miles _____	3yr/36,000mi

Line Item	Description	Crim Invest Changed from Escape	PD CIB Arson	PD CIB Arson	Total	Unit Cost	Extended Cost
1	Full Size, 1/2 ton pick up truck, Crew Cab, SWB, Ford F-150 or equal. **Color (1) light tan or beige (1) medium silver/gray**	1	1	1	3		
2	Automatic transmission	1	1	1	3		
3	Bench or Split bench cloth seat	1	1	1	3		
4	Vinyl Floor	1	1	1	3		
5	Air Conditioning	1	1	1	3		
6	Power Windows	1	1	1	3		
7	Power Door Locks	1	1	1	3		
8	4 keys with key fobs if equipped	1	1	1	3		
9	12 volt power receptacle mounted in front	1	1	1	3		

10	Towing Package	1	1	1	3		
11	Window tint (35%)	1	1	1	3		
12	Warranty Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1	1	1	3		
13	Must include all standard equipment. List other options included that are not specified	1	1	1	3		
	Total vehicle price with options	1	1	1	3	$21,422.00	$64,266.00
	Up-fitting	1			1		
1	Side Mount Support Arm C-HDM-401	1		1	2		$ -
2	Swing Arm Slide Out, Tilt/Swivel C-MD-102	1		1	2		$ -
3	8.5" telescopic pole	1		1	2	$453.21	$906.42
4	Soundoff Corner LED lights, ELUC2S010J (Head lights and Tail lights)	5	5	5	15	$125.00	$1,875.00
5	Soundoff 12 LED ENFSGS3J (grille mount)	2	2	2	6	$104.22	$625.32
6	Soundoff Single Deck 12 LED ENFSGS3J (Rear Window)	2	2	2	6	$104.22	$625.32
7	Snug Top Pro Lid fiberglass bed cover w/ lock color match, LED work light	1	1	1	3	$1,186.79	$3,560.37
8	Full length, in-bed slide-outs aluminum construction, 100% extension, 1000 # capacity. CargoGlide® CG1000 XL-A or equivalent	1	1	1	3	$1,450.00	$4,350.00
	Power Tamer	1	1	1	3	$124.95	$374.85
9	Labor to install up-fit	1	1	1	3	$550.00	$1,650.00
	Total Up-fitting						$3,967.28
	Total Vehicle and Up-fitting						$78,233.28
	Tire Tax				3	$5.00	$15.00
	Tax _____%					8.10%	$6,336.90
	Grand Total Vehicle, Up-fitting and Tax						$84,585.18

Replaces	7267	06276	07257
Unit Cost per vehicle for upfitting labor			
Provide Order cutoff Date_____	TBD		

Vehicle Estimated Delivery time from receipt of order_____Days	120
Upfitting Time after receipt of vehicle _____days (max 30 days)	30
Total delivery time vehicle and upfiting from receipt of order _____Days	150
Warranty Time/Miles _____	3yrs/36,000 mi

Line Item	Description	MUD, Water Distrib	T&D, Streets	MUD, Water Product	MUD, Wst Water Coll	MUD Water Quality Non VRP	Total	Unit Cost	Extended Cost
1	Conventional Cab and chassis, Regular Cab minimum 8,800 GVWR, 56-60" Cab to Axle. Ford F250 or equal. **Color White**	1	1	2	1	1	6		
	Upfitter switches	1	1	2	1	1	6		
2	Factory Upgrade Large Power Mirrors	1	1	2	1	1	6		
3	Automatic transmission	1	1	2	1	1	6		
4	Bench or Split bench cloth seat	1	1	2	1	1	6		
5	Vinyl Floor	1	1	2	1	1	6		
6	Air Conditioning	1	1	2	1	1	6		
7	Power Windows	1	1	2	1	1	6		
8	Power Door Locks	1	1	2	1	1	6		
9	4 keys with key fobs if equipped	1	1	2	1	1	6		
10	Tow package w/ brake controller	1	1	2	1	1	6		
11	12 volt power receptacle for driver	1	1	2	1	1	6		
12	Dark window tint	1	1	2	1	1	6		
13	Warranty Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1	1	2	1	1	6		
14	Must include all standard equipment. List other options included that are not specified	1	1	2	1	1	6		
	Total vehicle price with options	1	1	2	1	1	6	$ 19,372.00	$ 116,232.00
	Up-fitting								

1	Light bar, Amber, LED, Code 3 21TRPL52-C39993 w/Controller and Mounting Kit	1	1		1		3	$ 825.00	$ 2,475.00
2	Arrow Board. LED 30" x 60" w/ controller and fixed truck mount. Mounted not to interfere with bed.		1				1	$ 1,795.00	$ 1,795.00
3	Mini Light bar, LED, Amber, Federal Signal Highlighter, perm mount economy model # 454205-02, with control			2		1	3	$ 265.00	$ 795.00
4	8' Service body Standard height (Approx. 40") with adjustable shelves. Spray in bed liner inside bed and over the top of boxes. Body Painted to match chassis.	1	1	2	1	1	6	$ 5,494.00	$ 32,964.00
5	Ladder Rack W removable rear bar						0	$ 598.00	$ -
	4 corner 3" X 7" LED lights with built in flasher with swithc in cab. (price includes 4 lights and switch)						0	$ 583.00	$ -
6	Lift gate, 1,000 lb. Capacity	1			1		2	$ 2,181.00	$ 4,362.00
7	Flatbed w/ stake sides, tool boxes one each side mounted underneath between cab and axle and full width lift gate						0	$ 4,019.00	$ -
8	Back up alarm	1	1	2	1	1	6	$ 87.00	$ 522.00
9	Labor for up-fit	1	1	2	1	1	6	$ 480.00	$ 2,880.00
	Total Up-fitting								$ 45,793.00
	Total Vehicle and Up-fitting								$ 162,025.00
	Tax _____%							8.10%	$ 13,124.03
	Tire Tax						6	$ 5.00	$ 30.00
	Grand Total Vehicle, Up-fitting and Tax								$ 175,179.03
	Optional Increased GVW packages Specify cost and GVW gain								
	Replacing	03906	21389	04704 21380	98394				

Provide Order cutoff Date_____ TBD

Vehicle Estimated Delivery time from receipt of order_____Days	120
Upfitting Time after receipt of vehicle _____days (max 30 days)	30
Total delivery time vehicle and upfiting from receipt of order _____Days	150
Warranty Time/Miles _____	3/36,000

Line Item	Description	CM, B&F	Unit Cost	Extended Cost
1	Regular Cab Pick up, minimum 8,800 GVWR, Ford F250 or equal. **Color White**	1		
	Upfitter switches	1		
2	Factory Upgrade Large Power Mirrors	1		
3	Automatic transmission	1		
4	Bench or Split bench cloth seat	1		
5	Vinyl Floor	1		
6	Air Conditioning	1		
7	Power Windows	1		
8	Power Door Locks	1		
9	4 keys with key fobs if equipped	1		
10	Tow package w/ brake controller	1		
11	12 volt power receptacle for driver	1		
12	Dark window tint	1		
13	Warranty Bumper to bumper 3 years 36,000 miles Drive train 5 years 60,000 miles	1		
14	Must include all standard equipment. List other options included that are not specified	1		
	Total vehicle price with options	1	$19,972.52	$19,972.52
	Up-fitting			
1	Fleetwest (L8U003) (LNG-8000) W/1000# Drawer, floor w/ spray on liner, (S0A050) Ladder Rack, (P0A073) Vise Bracket.	1	$7,217.86	$7,217.86
2	Back up alarm	1		
3	**Labor for up-fit**	1		
	Total Up-fitting			$7,217.86
	Total Vehicle and Up-fitting			$27,190.38
	Tax _____%		8.10%	$2,202.42
	Tire Tax	1	$5.00	$5.00
	Grand Total Vehicle, Up-fitting and Tax			$29,397.80
	Optional Increased GVW packages Specify cost and GVW gain			
	Replacing	98320		

Provide Order cutoff Date_____	TBD
Vehicle Estimated Delivery time from receipt of order_____Days	120
Upfitting Time after receipt of vehicle _____days (max 30 days)	30
Total delivery time vehicle and upfiting from receipt of order _____Days	150
Warranty Time/Miles _____	3 years/ 36,000 miles