



**PURCHASING ITEM
FOR
COUNCIL AGENDA
ST15-013**

1. Agenda Item Number:

16

2. Council Meeting Date:
January 22, 2015

TO: MAYOR & COUNCIL

3. Date Prepared: December 4, 2014

THROUGH: CITY MANAGER

4. Requesting Department: Transportation & Development

5. SUBJECT: Agreement with Freightliner Sterling Western Star of Arizona for the purchase of a 10-wheel dump truck

6. RECOMMENDATION: Staff recommends City Council approve the primary bid Agreement No. ST5-072-3470, with Freightliner Sterling Western Star of Arizona, for the purchase of a 10-wheel dump truck, in the amount of \$129,596.20.

7. BACKGROUND/DISCUSSION: This purchase of a new 10-wheel, 12 cubic yard tandem dump truck is a direct replacement for the Right-of-Way crew's dump truck No. 99402, which is a 1999 Ford single axle, 5-cubic yard dump truck with a bent chassis frame. The 16-year old dump truck is deficient within current Department of Transportation (DOT) specifications and not adequate for the present duty requirements of hauling trailers with equipment and heavy material loads. Truck No. 99402 is underpowered and does not have necessary cooling and braking system capabilities to safely pull heavy equipment and loads to the jobsites. The new tandem axle 10-wheel dump truck is equipped with greater engine power, more torque, higher material load capacity, improved braking system, upgraded transmission cooling, and is appropriately rated for DOT hauling/towing capacities.

8. EVALUATION PROCESS: On October 29, 2014, the City issued Invitation For Bid (IFB) ST5-072-3470 for the purchase of a dump truck. The IFB was advertised and all registered vendors were notified. The City received offers from two (2) Arizona firms. Staff recommends award of the primary bid to Freightliner Sterling Western Star of Arizona, who submitted the lowest responsive, responsible bid. The alternate bid from Freightliner Sterling Western Star of Arizona was for a slightly more expensive dump bed body only.

	Freightliner Sterling Western Star of Arizona primary bid	Freightliner Sterling Western Star of Arizona alternate bid	Vanguard Truck Center
Chassis	\$ 88,196.00	\$ 88,196.00	\$ 110,000.00
Dump Body and Installation	\$ 31,445.00	\$ 33,115.00	\$ 33,115.00
Sub Total	\$ 119,641.00	\$ 121,311.00	\$ 143,115.00
Tax	\$ 9,955.20	\$ 10,093.81	\$ 11,878.55
Total	\$ 129,596.20	\$ 131,404.81	\$ 154,993.55

9. FINANCIAL IMPLICATIONS:

Cost: \$129,596.20

Long Term Costs:

Fund Source:

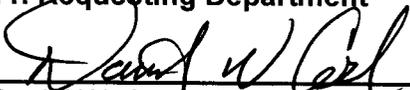
<u>Acct No.</u>	<u>Fund</u>	<u>Program Name</u>	<u>CIP funded</u>	<u>Amount</u>
401.3310.6310.0.6ST690	General Fund Capital	10-Wheel Dump Truck	Yes	\$129,596.20

10. PROPOSED MOTION: Move City Council approve the primary bid Agreement No. ST5-072-3470, with Freightliner Sterling Western Star of Arizona, for the purchase of a 10-wheel dump truck, in the amount of \$129,596.20.

ATTACHMENT: Agreement

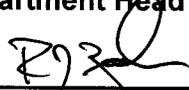
APPROVALS

11. Requesting Department



Daniel W. Cook, City Engineer

13. Department Head



R.J. Zeder, Transportation & Development Director

12. Procurement Officer



Mike Mandt

14. City Manager



Rich Dlugas, City Manager

CITY OF CHANDLER PURCHASE CONTRACT
DUMP TRUCK
AGREEMENT NO.: ST5-072-3470

THIS AGREEMENT is made and entered into this ____ day of _____, 2015, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Freightliner Sterling Western Star of Arizona 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 Streets Superintendent/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 Contract Release Order or use of a City Procurement Card.

2. GOODS AND MERCHANDISE TO BE PROVIDED: CONTRACTOR shall provide to CITY the goods and equipment listed on Exhibit A, attached hereto and made a part hereof by reference, at the prices listed on Exhibit B, all as more specifically set forth in the Specifications and details included therein.

2.1. Safety Standards: All items supplied pursuant to this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association 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. 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.

2.4. 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.

2.5. 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.

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

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

- 2.8. **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.
- 2.9. **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.
- 2.10. **Parts Availability.** Parts must be available for a minimum of five (5) years from bid date.
- 2.11. **New/Current Products.** All goods, equipment, materials, parts and other components supplied pursuant to this Contract shall be new and must be model year 2013 or newer

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.
 - 3.3. **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 have the original manufacturer warranty period (minimum period of one year) 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 shall be made within one hundred and eighty (180) calendar days after receipt of a Contract Purchase Order (ARO).

4.4. **Liquidated Damages**

A. The date for delivery of equipment is critical to the City of Chandler. The delivery time specified in section 4.3 will be the expected delivery time and will be used in enforcing liquidated damages

B. The contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate as will insure full completion thereof within the time specified. It is expressly understood and agreed by, and between the Contractor and the City that the time for completion of the work described herein is a reasonable time for completion of the same, taking into consideration the average and usual industrial conditions prevailing and, nature of the work or site.

C. The time limits for Completion, delivery and system testing of the equipment as stated herein is of the essence of this Contract.

D. CITY and CONTRACTOR recognize that time is of the essence of this Contract and that CITY will suffer financial loss if the equipment is not completed, delivered and system tested within the times specified herein, plus any extensions thereof allowed in accordance with the Contract Documents. CITY and CONTRACTOR also recognize the delays, expense, and difficulties involved in proving, through legal or arbitration proceedings, the actual loss suffered by CITY if the equipment is not completed and delivered on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY one hundred dollars and no cents (**\$100.00**) for each calendar day that expires after the time specified in Section 4.3 until the equipment is complete, delivered to CITY and the system testing is complete.

(1) City may deduct any such monies due or to become due to the Contractor for failure to complete, deliver and test the equipment on time.

(2) If the contract is not terminated, the Contractor shall continue performance and be liable to the City of Chandler for the liquidated damages until the equipment is delivered in operational condition and/or services performed.

E. In the event the City exercises its rights of termination, the Contractor shall be liable to the City for any excess costs, and in addition, for liquidated damages until such time the City may reasonably obtain delivery or performance of similar equipment or services.

F. Where applicable, and at the sole discretion of the City, the City reserves the right to accept (for stated periods of time) approved loaner materials as a temporary substitution for payment of liquidated damages by a contracted vendor found to be in default for delivery of specified, ordered products.

G. It should be noted that the date for acceptance includes complete delivery, training, optimization of the equipment, for each phase explicitly including all optional equipment and services, and all corrections of defects uncovered during testing, any additional test or re-tests that may be required and delivery of documentation and training.

5. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed one hundred and twenty-nine thousand five hundred and ninety-six dollars and twenty cents. Dollars (\$129,596.20) 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 B, 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. CITY will be responsible for title work. Contractor shall provide MSO.
- 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.
6. **USE OF THIS CONTRACT:**
 - 6.1. 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.

- 6.2. 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.
- 6.3. 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.

7. CITY'S CONTRACTUAL REMEDIES:

- 7.1. 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.
- 7.2. Non-exclusive Remedies:** The rights and the remedies of CITY under this Contract are not exclusive.
- 7.3. 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.
- 7.4. 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.

8. TERMINATION:

- 8.1. 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.

8.2. 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.

8.3. 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.

8.4. 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.

8.5. 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.

8.6. 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.

8.7. 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.

- 8.8. **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.
- 8.9. **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.
- 8.10. **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.

9. **DISPUTE RESOLUTION:**

- 9.1. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 9.2. **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.
- 9.3. **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.
10. **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.

11. 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.

<p>In the case of CITY Department: _____</p> <p>Contact: <u>Rex Hartman</u></p> <p>Mailing Address: <u>PO Box 4008 MS 909</u></p> <p>Physical Address: <u>975 Armstrong Way</u></p> <p>City, State, Zip: <u>Chandler, AZ 85244-4008</u></p> <p>Phone: <u>480-782-3493</u></p>	<p>In the case of the CONTRACTOR</p> <p>Firm Name: <u>Freightliner Sterling Western Star of Arizona</u></p> <p>Contact: <u>Tom Robertson</u></p> <p>Address: <u>9989 West Roosevelt Street</u></p> <p>City, State, Zip: <u>Tolleson, AZ 85353</u></p> <p>Phone: <u>623-907-9900</u></p>
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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.

12. GENERAL TERMS:

- 12.1. 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.
- 12.2. Arizona Law:** This Contract shall be governed and interpreted according to the laws of the State of Arizona.
- 12.3. Assignment:** Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.
- 12.4. 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.

13. Conflict of Interest:

- 13.1. 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.
- 13.2. 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).

- 13.3. **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. **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.
- 14.1. **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.
- 14.2. **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.
- 14.3. **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 _____, 2015.

FOR THE CITY OF CHANDLER

Mayor

FOR THE CONTRACTOR

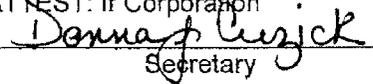
By:  _____
Signature

ATTEST:

City Clerk

SEAL

ATTEST: If Corporation

 _____
Secretary

Approved as to form:

_____ 
City Attorney

**Exhibit A
ST5-072-3470
Dump Truck**

Note List actual dimension, capacity or product in column on the right

	ITEM/MINIMUM REQUIREMENT	Product or specification Offered
CHASSIS	Provide Chassis year, make and model offered 2016 Freightliner 108-SD	
C.T.	138" Approximately	
GVWR:	58,000 Lbs Minimum	
ENGINE:	Diesel Cummins/Pacar (No Exceptions), 8 Liter Minimum, 800 Minimum Ft. Lb. Torque Net At Rated Rpm With Electronic Controls. Engine Compression Brake With Three-Phase Switch Or Equal. Engine Warranty minimum one year. Vendor Shall Specify Warranty. Include Throttle Lock Engine Bid Must Be An Acceptable Match To The Transmission As Certified By The Transmission Manufacturer.	Cummins ISL 9 Liter
TRANSMISSION:	Allison 3500 RDS With Air To Oil Cooler or Approved Equal, Wide Ratio, 5-Speed Minimum, With PTO Gear, With Oil Level Sensor, No Retarder. Rated For H.P. and Torque of selected engine. Transmission Warranty minimum one year. Castrol Transynd To Be Installed At The Factory. Vendor Shall State Warranty	
EXHAUST:	Vertical exhaust mounted right side designed not to interfere with loading of dump body. Heat from exhaust shall not interfere with cab entry.	
AIR CLEANER:	Heavy Duty, Maximum Available, Dual Element With Restriction Gauge In Cab And Vacuator. Externally Mounted Dry-Type Molded Rubber Sleeves At All Connections. Stainless Steel Clamps At All Connections. Torque Clamps, Single Intake	
OIL FILTER:	Heavy Duty, Full Flow With Bypass, engine mounted. Electric Engine Oil Cooler	
ELECTRONICS	Diagnostic Plug For Data Link	
COOLING SYSTEM:	Rough service mounting, maximum cooling available, Must be able to operate in temperatures of 120degrees, with Horton Fan Drive master or equal with ON / OFF cooling.	
BUG SCREEN:	Radiator- Mounted Behind Grille 1/4" Grid Steel Screen. Door Screen Material Will Not Be Accepted	
ELECTRICAL SYSTEM:	12 Volt, 2 Maintenance Free Batteries, 1500 CCA, Minimum, or Equal, Batteries Mounted for easy access. Under Cab. Battery Box with Jump-start External Of Battery Box Or At Engine. Alternator Rated At 130 Amp Capacity. Starter 12-Volt With Thermal Over Crank Protection. Circuit Breakers With Manual Reset or approved equal.	Multiplex

Towing Connections	See Dump Body Specification for Trailer electrical and air connection requirements	
STEERING:	Power, Heavy Duty, Full Hydraulic, Tilt Wheel	
AIR COMPRESSOR:	13 CFM, Minimum, Water Cooled, With Teflon Discharge Line Or Approved Equal. Full Air With Water Filters/Driers, Automatic Drain Valve	
BRAKES:	Bendix Antilock Brake System Or Equal. Color Coded Nylon Brake Lines Or Equal, Air Lines Inside Frame To Meet All Regulations. Front And Rear Automatic Slack Adjusters. Brakes shall meet or exceed capacity required for vehicle offered. List front and rear brake capacity.	Wabco
PARKING BRAKE:	On both drive axles.	
FRONT AXLE:	18k Set Back	
FRONT SUSPENSION:	Front Spring Multileaf 18k With Shocks, Steel Front Drive Brackets, Steel Shackle Brackets And Links Or Approved Equal	
PPOPSHAFTS:	Heavy Duty Driveline And Center Bearings. Full Round DI Yokes Replacing ½ Round Or Approved Equal.	
REAR AXLES:	Tandem, Rockwell RT-40-155 Or Approved Equal, Single Reduction 40,000 Lb Capacity Or Approved Equal. Inter axle differential lock (power divider).	
REAR SUSPENSION:	40k Capacity, High articulation Tandem Truck Suspension.	
WHEELS:	Front wheels 2, Budd type, Pilot Mount 22.5 X 9 Rear Wheels 8 Budd type, Pilot Mount 22.5 X 8.25	
TIRES:	Front 2, 315 80R 22.5 20 ply Goodyear G289WHA or equal Rear 8, 11R 22.5 B 16 ply Goodyear G286 or equal	
SPARE TIRE AND WHEEL	Shall include front spare tire and wheel supplied loose	
CAB:	Conventional, Insulated, with light weight Tilt Hood And Fenders. Full Tinted Glass, Dual-Air Horn, Retractable Power Mirrors Both Sides Approximately 7" X 16" With Separate 8" Convex Spot Mirrors, Grab Handles Each Side, LED Turn Signals, LED Marker Lights, And Reflectors To Meet All Regulations. Electric Horn Under Hood, Heavy Duty Windshield Wipers with speed control to include intermittent settings, Steps On Each Side For Entrance.	
CAB INTERIOR:	Standard level cloth interior, Drivers side high back air seat, Passenger High back Fixed seat. Dual sun visors.	
FUEL TANKS:	Minimum 70-Gallon Tank. Truck Is Driven Off Road And Need Maximum Ground Clearance.	
BUMPER:	Heavy Duty, Painted Steel, Swept Back Or Equal. Two Front Frame Mounted Tow Hooks.	
RADIO:	Am-Fm Stereo.	
AIR CONDITIONING:	Maximum Available, Factory Only, Internal Cab No Roof Mounting. Aftermarket air not acceptable.	

INSTRUMENTATION:	Speedometer, Odometer, Oil Pressure Gauge, Water Temperature Gauge, Engine Hour Meter, Volt Meter, Fuel Gauge, Tachometer, Transmission Temperature Gauge, Dual Air Pressure Gauges,	
AUTOMATIC WARNING SYSTEM:	Separate Audible (Above Ambient Levels) Alarms For Low Engine Oil Pressure, Engine Over Temperature, Low Air Pressure Warning System.	
BACK-UP ALARM:	Electric Backup Alarm, 97db Minimum. Weatherproof And Steam-Cleanable	
SUPPRESSION:	Unit Will Be Equipped With AM And Mobile Radio Noise Suppression Package. Electric And Electronic Components Of The Unit Shall Not Interfere With Signals Received Or Transmitted By Wireless Communications Devices, Nor Shall The Electric And Electronic Components Of The Unit Be Affected By The Operation Of Wireless Communications Devices.	
COLOR:	Cab, Body And Wheels - Standard White Frame - Standard Black. Interior - Gray	
PTO:	Air Operated Hot Shift PTO With Adjustable Over speed Control	
LIGHTS:	Lights And Reflector Shall Meet Dot Requirements. All Lights Shall Be LED where applicable.	
PAINT:	All Mill Scale Shall Be Removed Prior To Primer Coat And Two Coats, Minimum, Of Pure White Urethane Applied Or Equal.	
MANUALS:	Provide operators manuals on DVD or CD format and 2 and CD copies of maintenance and parts manual.	
INSTALLATION DRAWING AND PRE-BUILT MEETING:	Contractor to furnish installation drawing prior to body production for final approval by the City. Contractor shall be required to participate in a pre-build meeting.	

Specification for 15 x 36 REAR Dump body

Note List actual dimension, capacity or product in column on the right

	ITEM/MINIMUM REQUIREMENT	Actual Dimension
	Provide Manufacturer and model of dump body offered	
	Interstate Truck Bodies Model ITB 1536	
	15 X 36 Semi elliptical dump body, 12 Yd Capacity 138"CT	
	15 Ft long with 36 inch sides	
	54" tall front wall	
	8" channel, longsills and X braces	
	¼ inch AR-400 material, floor sides and ends	
	Body is cross memberless design	
	3 x 3" top rails mounted on diamond	
	3/16 high tensil, one piece rear steel posts	
	Out-board bail mount hoist with 4-stagew 156" stroke cylinder	
	Air operated high-lift tailgate with air operated latches	
	Heavy duty 3/16" full width cab-guard	
	Spreader apron with chains and hooks (spreader chains are stored under apron when not in use)	
	Heavy duty steel fenders over drive axles with anti-sail mud flaps at front of fenders	
	LED lights and reflectors to DOT requirements – all lights are LED with sealed waterproof wiring harness	
	Direct mount (hotshift) PTO and hydraulic pump PTO and body controls are air operated, hoist is cable operated with neutral lock mounted in tower between seats	
	Return line oil filter in wet kit	
	Steel hydraulic tank is mounted on side of frame with shut off valves on suction and return lines	
	Body up safety prop and indicator light	
	Body guides on each side of frame	
	Complete new rear hinge assembly	
	All necessary mounting hardware	
	Installed complete	
	Body is prepped, primed, and painted white	
	Electric tarp system with steel arms and mesh tarp installed complete. Arms shall be angled so they do not interfere with loading of the dump body.	
	Heavy duty rear hitch plate with pintel hitch (Holland PH200-A), D-rings, glad hands, and 7-way light socket (Truck must have tri air package)	
	Electric brake controller with a 6-way socket at hitch plate	
	Four LED work lights (in cages to protect them) mounted to all four light corners with switches wired curb side and street side	
	Code 3 SHL10A which is a mini 18" led light bar or equal and LED flashing lights on four corners.	
	Under body tool box. Dimensions Approximately 30 X18 X 18, 14 gauge steel mounted under dump body passenger side	

**Exhibit B
Pricing
Dump Truck**

Chassis	\$	88,196.00
Dump Body and Installation	\$	<u>31,445.00</u>
Sub Total	\$	119,641.00
Tax	\$	<u>9,955.20</u>
Total	\$	129,596.20