

# CITY CLERK ORIGINAL

C-8479  
05/24/2013

## AGREEMENT FOR AUCTIONEER SERVICES

This Agreement for Auctioneer Services ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Sierra Auction Management, Inc., an Arizona corporation (the "Contractor"), as of the 24 day of May, 2013.

### RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, pursuant to City of Mesa Solicitation No. RFP #2010158 (the "Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto;
- C. City and Contractor desire to memorialize their agreement with this document.

### AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

#### 1. Key Personnel; Sub-contractors.

1.1 Services. Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.

#### 1.2 Project Team.

##### a. Project Manager.

- (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
- (2) The City must approve the designated Project Manager; and
- (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.

##### b. Project Team.

- (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
- (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

##### c. Discharge, Reassign, Replacement.

- (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.
- (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City

without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.

- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. Sub-contractors.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Contractor's Work.**

3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Contractor warrants that:

- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
  - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
  - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").
- b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

- c. For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

- a. Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
  - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
  - (2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
  - (1) City may reuse the Work Product at its sole discretion.
  - (2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.
  - (3) In such case, City shall also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$45,000, as specifically detailed in **Exhibit B** (the "Compensation").

4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified.

- a. Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
- c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. **Billings and Payment.**

5.1 Applications.

- a. Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

5.2 Payment.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Contractor and its Sub-contractors; and
  - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.

- a. Contractor will be equitably compensated for Service and Repair furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. Conflict. Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. Insurance.

8.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.

- b. **General Liability.**
- (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate for each property damage and contractual property damage.
  - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
  - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.
- c. **Auto.** A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors. If an aggregate policy limit is applicable, it shall be at least \$2,000,000. The policy shall cover owned, non-owned and hired automobiles. The policy shall provide blanket coverage for all vehicles being transported under this Agreement.
- d. **Workers' Compensation and Employer's Liability.** A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. **Notice of Changes.** Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
- (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
  - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
  - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- f. **Certificates of Insurance.**
- (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which are consistent with the requirements set forth above and naming the City of Glendale as an additional insured, as evidenced by providing an additional insured endorsement. All insurance carriers shall represent on their certificates that 30 days written notice shall be given to the City of Glendale, Purchasing Department at 5850 West Glendale Avenue, Glendale, AZ 85301 in the event of any cancellation or material change in the coverage afforded by the policy.
  - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
  - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.

- g. Other Contractors or Vendors.
  - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
  - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- h. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
  - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
  - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

## 8.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

## 8.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

**9. Immigration Law Compliance.**

- 9.1 Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 9.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 9.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 9.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

**10. Foreign Prohibitions.** Contractor certifies under A.R.S. §§ 35-391 *et seq.* and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutes, in the countries of Sudan or Iran.

**11. Notices.**

- 11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
- a. The Notice is in writing; and
  - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
  - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
    - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or
    - (2) As of the next business day after receipt, if received after 5:00 p.m.
  - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
  - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 Representatives.

- a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Mark Fuerer  
c/o Sierra Auction Management, Inc.  
3570 Grand Avenue  
Phoenix, Arizona 85019  
602 242 7121

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
c/o Dave Harvey  
Equipment Management Supervisor  
6210 West Myrtle Avenue, Suite 111  
Glendale, Arizona 85301  
623-930-2621

With required copy to:

City Manager  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

City Attorney  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

12. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

13. **Entire Agreement; Survival; Counterparts; Signatures.**

13.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

- c. The solicitation, any addendums and the response submitted by the Contractor for the City of Mesa, Arizona RFP #2010158 are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

13.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

13.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

13.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

13.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

13.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.

13.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

14. **Term.** The term of this Agreement commences upon the effective date and continues until August 31, 2014 ("Initial Term"). The City may, at its sole option and initiative, extend the term of this Agreement one additional two-year term in accordance with the terms of this Agreement. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

15. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.

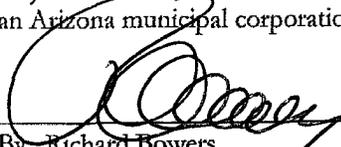
16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation
Exhibit C	Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement as of the effective date shown above.

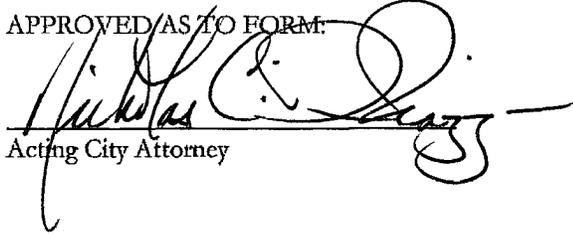
City of Glendale,  
an Arizona municipal corporation

  
By: Richard Bowers  
Its: Acting City Manager

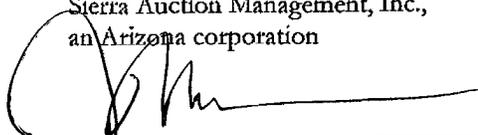
ATTEST:

  
City Clerk (SEAL)

APPROVED AS TO FORM:

  
Acting City Attorney

Sierra Auction Management, Inc.,  
an Arizona corporation

  
By: Mark Feuerer  
Its: President

**EXHIBIT A**  
**Auctioneering Services Agreement**  
**PROJECT**

*[See attached]*

Contractor shall provide auctioneering services for the City of Glendale in accordance with the Auctioneer Services Agreement between Sierra Auction Management, Inc. and the City of Mesa, Arizona pursuant to Mesa RFP #2010158, attached hereto and incorporated herein. Any discrepancies or inconsistencies between the solicitation, any addendums, the response or any excerpts attached as Exhibit A, and this Agreement will be resolved by the terms and conditions stated in this Agreement.

**CITY OF MESA  
MESA, ARIZONA**

**AUCTIONEER SERVICES AGREEMENT**

This Agreement is made and entered into by and between SIERRA AUCTION MANAGEMENT, INC. hereinafter designated "Contractor," and the CITY OF MESA, ARIZONA, hereafter designated "City".

WHEREAS, the City has requested proposals for auction services and as more fully set forth in the City's Request for Proposal No. 2010158, Standard Terms and Conditions, Special Terms and Conditions and Detailed Specifications (the "Request for Proposal"); and

WHEREAS, Contractor has submitted a completed Proposal Form and Questionnaire (the "Proposal") in response to the Request for Proposal; and

WHEREAS, the City by appropriate resolution has accepted the Contractor's Proposal; and the parties now desire to enter into a contract whereby the City will receive Auctioneer Services as specified from the Contractor, and the Contractor will provide such service in a timely and acceptable manner to the City:

NOW, THEREFORE, in consideration of the mutual covenants between the parties, it is agreed as follows:

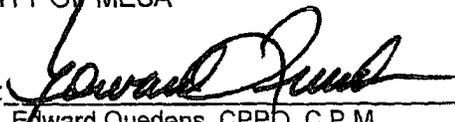
1. The Contractor shall:
  - 1.1 Conduct regularly scheduled auctions and provide a list of dates and times of scheduled auctions.
  - 1.2 Transport surplus City vehicles to the auction/storage site within five business days after notification by the City.
    - (a) Thoroughly and carefully remove all decals, logos, and insignias from City vehicles and equipment.
    - (b) Remove, and return at City's request, any pushbars and prisoner divider screens from surplus patrol vehicles. If not returned to the City, these items will be auctioned.
  - 1.3 Provide all Labor and Equipment, including:
    - (a) Form for Registration of bidders with identification information
    - (b) Police security and traffic control (if necessary)
    - (c) Labor for placement of auction items
    - (d) Adequate restroom facilities
    - (e) Auctioneer staff to handle the following:
      - Registration of bidders
      - Handling of all money/credit card purchases
      - Notary
      - Title transfer
      - Pick-up/check-out of merchandise
    - (f) Tables, chairs, cash register, phones, office supplies, etc.
  - 1.4 Be responsible for coordination of all auction activities with City staff. Primary City contact person shall be with the Fleet Support Services Director and Mesa Police Department SID Commander, (or their designee) to whom auctioneer will report.

- 1.5 Handle and report to the City about all disputes that arise during and following each auction.
- 1.6 As its compensation for services provided, the Contractor shall receive commission based on a percentage of gross sales proceeds generated from the sale of each vehicle, and/or merchandise, plus any agreed upon fee as outlined in Pricing and Compensation.
- 1.7 Submit all required documentation to the individuals and addresses listed in Sections SP.8 and SP.11 of the Special Terms and Conditions.
- 1.8 Be responsible for the protection of all City vehicles against any damage resulting from vandalism or accidentally damaged while in the control of the vendor.
- 1.9 Secure, maintain and keep in force the following insurance coverages throughout the term of this contract:
  - a) COMMERCIAL GENERAL LIABILITY INSURANCE in the amount of \$1 million per occurrence, including contractual liability as set forth on the City's Insurance Certificate.
  - b) COMMERCIAL AUTO LIABILITY INSURANCE in the amount of \$1 million per occurrence. If an aggregate policy limit is applicable, it shall be at least \$2 million. The policy shall include the hired auto and non-owned auto coverages in all cases. It shall provide blanket coverage for all vehicles being transported under this Agreement.
  - c) WORKER'S COMPENSATION INSURANCE in the statutory amount.
  - d) A Certificate of insurance, consistent with the requirements set forth above and naming the City of Mesa as an additional insured, as evidenced by providing an additional insured endorsement, shall be provided to the City upon execution of this contract. All insurance carriers shall represent on their certificates that 30 days written notice shall be given to the City of Mesa Purchasing Division at P.O. Box 1466, Suite 400, Mesa, Arizona 85211-1466 in the event of any cancellation or material change in the coverage afforded by the policy. The insurance coverage required herein shall be the primary coverage for the Contractor for all activities under this contract. Such insurance shall be provided by insurance companies authorized by the Arizona Department of Insurance to transact business in the State of Arizona.
- 1.10 To the fullest extent permitted by law, indemnify, defend and hold harmless the City, its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the work required under this contract, provided any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or part by a negligent act or omission of Contractor, the City, and subcontractor, anyone directly or indirectly employed by any of them, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 1.11 Provide qualified personnel and all necessary equipment, tools, and supplies to perform the services required under this contract.

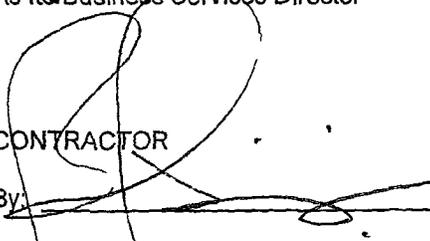
2. The City shall:
  - 2.1 The City reserves the right to add and delete vehicles and equipment from the auction up to the day of the auction, to visit the storage facility during normal working hours to inspect the thoroughness of preparation prior to sale, to attend each auction at not charge, and the right to set minimum bids on City property.
  - 2.2 Notify the Contractor when and where City vehicles and equipment are ready for auctioning and relocation to the Contractor's site.
  - 2.3 Deliver all police seized vehicles and merchandise to Contractor's site.
3. This contract shall be effective on or about September 1, 2010 and terminating on August 31, 2013. This contract may be renewed for one additional two-year term at the sole initiative and option of the City in accordance with the terms contained in the Milestones of RFP # 2010158.
4. The agreement may be terminated by the City, if the Contractor fails to perform its respective duties hereunder.
5. This contract is voidable and subject to immediate cancellation by the City if the Contractor becomes insolvent or initiates proceedings in bankruptcy or reorganization.
6. The parties agree that the Contractor is acting as an independent contractor in the performance of this contract and shall not be considered an employee of the City.
7. Contractor and City represent and warrant to each other that all necessary and appropriate action has been taken to approve this contract, and that the persons whose signature appears hereunder are representatives authorized to execute this contract.

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement.

CITY OF MESA

By:  9/2/10  
 Edward Quedens, CPPD, C.P.M. Date  
 As Its Business Services Director

CONTRACTOR

By:  8/30/2010  
 Date

PRINTED NAME: BRETT HIGGINS

Its: VICE PRESIDENT OF MARKETING

## STANDARD TERMS AND CONDITIONS

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- S.1 **CITY OF MESA ARIZONA:** Whenever the term "City" is used herein, it is referring to the City of Mesa, Arizona.
- S.2 **CONTRACTOR.** Whenever the term "Contractor" is used herein, it is referring to the Contractor as well as any subcontractors. The Contractor is fully responsible for subcontractor's compliance with the Terms and Conditions herein as well as any resultant contract.
- S.3 **SUBCONTRACTING AND JOINT VENTURES.** The City intends to contract with one entity per contract and that one entity shall be contractually responsible for performance. The Contractor may not subcontract work for a contract without the express written permission of the City. If the Contractor has received authorization to subcontract work, it is agreed that all subcontractors performing work under the agreement shall comply with its provisions and it is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees or agents of the Contractor and not the City. Nothing contained in any contract or joint venture agreement shall create any contractual relationships between any subcontractor and Mesa, nor shall the same create any obligation on the part of Mesa to pay any subcontractor. For any joint venture to be acceptable, Contractor must take full contractual responsibility for the obligation.
- S.4 **CONTRACTOR BUSINESS REQUIREMENTS.** The Contractor shall procure all permits and licenses, and pay all charges and fees necessary and incidental to the lawful conduct of business. The Contractor must stay fully informed of existing and future Federal, State and Local laws, ordinances and regulations that in any manner affect the fulfillment of this contract and shall comply with the same. The Contractor's personnel, facilities and equipment shall be in full compliance with all applicable federal, state and local health, environmental and safety laws, regulations, standards, ordinances, and privilege license and permit requirements, whether or not they have been referenced by the City.
- Employee compensation shall meet all applicable requirements of the Fair Labor Standards Act and Federal and Arizona minimum wage laws
- The Contractor shall comply with all applicable OSHA regulations. The Contractor bears full responsibility for employee training, safety, and providing necessary equipment to achieve compliance prior to the contract commencement date. Upon request, Contractor shall demonstrate to the City's satisfaction any programs, procedures and other activities used to ensure compliance.
- The Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statute.
- Per Arizona Revised Statute (herein "A.R.S.") §35-392, the Contractor shall not be in violation of section 6(j) of the Federal Export Administration Act.
- The Contractor shall be compliance with A.R.S. §35-391 and 35-393 which prohibit the Contractor from having scrutinized business operations in Sudan or Iran.
- The Contractor shall be in compliance with all applicable tax requirements and shall be current in payment of such taxes.
- The Contractor will be responsible for any damages to property when such property is the responsibility of or in the custody of the Contractor or its employees.
- Upon request, the City may inspect or request copies of any such records it deems necessary to determine compliance with this section.
- S.5 **COMPLIANCE WITH FEDERAL AND STATE IMMIGRATION LAWS.** The Contractor agrees to comply with the Immigration Reform and Control Act of 1986 (IRCA) in performance under this Agreement and to permit the City or its agents to inspect personnel records to verify such compliance. The Contractor shall ensure and keep appropriate records to demonstrate that all employees have a legal right to live and work in the United States.
- Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with, and are

## **STANDARD TERMS AND CONDITIONS**

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contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Contractor or Subcontractors employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed.

Neither the Contractor nor any of Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214, Subsection A.

S.6 **EMPLOYMENT PRACTICES.** Contractor asserts that it does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and asserts that it complies with all applicable Federal, state and local laws and executive orders regarding employment. The Contractor, its employees and subcontractors will comply with applicable provisions of Title VII of the U.S. Civil Rights Act of 1964, as amended, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and applicable rules in performance under this Contract.

S.7 **DRUG FREE WORKPLACE PROGRAM.** Contractors are hereby advised that the City of Mesa has adopted a policy establishing a drug free workplace for itself and as a requirement for Contractors doing business with the City, to ensure the safety and health of employees working on City contracts/projects.

The Contractor shall require a drug free workplace for all employees working under the contract. Specifically, all Contractor employees who are working under this contract shall be notified in writing by the Contractor that they are prohibited from the manufacture, distribution, dispensation, possession or unlawful use of a controlled substance in the workplace. The Contractor agrees to prohibit the use of intoxicating substances by all employees and shall ensure that employees do not use or possess illegal drugs while in the course of performing their duties.

Failure to require a drug free workplace in accordance with the Policy may result in termination of the contract and possible debarment from bidding on future City of Mesa contracts/projects.

S.8 **BACKGROUND CHECK:** The City may conduct criminal and driver history background checks of Contractor's officers, employees or agents who would supervise or physically perform the Contract requirements, and/or who will have access to the City's information, data, and/or facilities. Any officer, employee or agent deemed unsuitable by the City must be replaced immediately.

S.9 **FOB POINT & RISK OF LOSS.** All deliveries shall be FOB destination unless otherwise agreed. The Contractor agrees to bear all risks of loss, injury, or destruction of goods or equipment incidental to providing these services and such loss, injury, or destruction shall not release Contractor from any obligation hereunder. Freight charged/terms shall be as agreed.

S.10 **CONTRACT ADMINISTRATION.** The contract shall be administered by the Purchasing Administrator and/or an authorized representative from the using department. All questions regarding the contract shall be referred to an administrator for resolution. Supplements may be written to the contract for the addition or deletion of services. Payment will be negotiated and determined by the Contract Administrator(s).

S.11 **NON-EXCLUSIVITY.** The City, in its sole discretion, reserves the right to request the materials or

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## STANDARD TERMS AND CONDITIONS

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services set forth herein from other sources when deemed necessary and appropriate. No exclusive rights are encompassed through the awarding of the contract.

S.12 **TAX EXEMPTION.** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request. The City is not exempt from State and Local sales/use taxes.

S.13 **ASSIGNMENT.** No contract awarded by the City may be assigned either in whole or in part without first receiving written consent of the City. Any attempted assignment, either in whole or in part, without such consent shall be null and void and in such event the City shall have the right at its option to terminate the contract. No granting of consent to any assignment or subcontracting shall relieve the Contractor from any of its obligations and liabilities under the agreement. Any subcontracting in violation of this section shall also be void.

S.14 **DEFAULT, TERMINATION AND OTHER REMEDIES.** The City reserves the right to terminate any part or all of a contract resulting from this solicitation if the Contractor fails to carry out any term, promise, or condition of the contract. The City will issue a written Notice of Default to the Contractor if in the opinion of the City, the Contractor:

- Is or becomes insolvent or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's capability to perform under the contract resulting from this solicitation;
- Is the subject of a petition for involuntary bankruptcy not removed within sixty (60) days;
- Fails to obtain and/or keep any required bonds and insurance policies in full force and effect at all times during the term of the contract;
- Provides services that do not meet the requirements of the contract or conducts business in an unethical or illegal manner;
- Fails to complete the required work or fails to perform required services within the time frame stipulated.
- Fails to materially perform or comply with the terms and conditions of the contract resulting from this solicitation.

Failure of the Contractor to remedy any problems noted by the City's deadline set in the Notice of Default or to otherwise bring performance to satisfactory levels that are within the requirements of the contract shall give the City cause to cancel this contract. In addition, any Contractor who is the recipient of three or more Default Notices during any twelve-month period, or five or more during the entire term of the contract, shall give the City cause for termination.

If the City terminates the contract, the Contractor will be provided with a written notice that specifies the effective date of the termination. After receipt of the Notice of Termination, the Contractor agrees to perform under the terms and conditions of this contract up to and including the date of termination as though no termination has been made. In case of default and/or termination, the City reserves the right to purchase the services required under the contract from the open market, to complete required work itself or have it completed at the expense of the Contractor. The City may recover any actual excess costs by (1) deduction from an unpaid balance due to the Contractor; (2) collection against the proposal and/or performance security; if any; (3) collection against liquidated damages (if applicable); or (4) a combination of the aforementioned remedies or other remedies as provided by law.

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of its intent to perform. In the event that the demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

S.15 **TERMINATION FOR CONVENIENCE.** The City reserves the right to terminate any resulting order or contract in part or in whole upon thirty (30) days written notice. The City will be responsible only for those goods and/or services that conform to the requirements of the contract and that have been delivered and/or performed and accepted.

S.16 **FUNDS APPROPRIATION.** The City is a governmental agency, which relies upon the appropriation of funds by its governing body to satisfy its obligations. In the event that an appropriation is not granted and operating funds are not otherwise legally available for the City to meet its obligations under any contract(s) resulting from this request, the City shall have the right

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## STANDARD TERMS AND CONDITIONS

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to terminate the contract without penalty on the last day of the fiscal period for which funds were legally available. In the event of such termination, the City agrees to provide written notice of its intent to terminate thirty (30) calendar days prior to the stated termination date. The City will pay the Contractor all charges incurred through the termination date.

Due to ongoing budgetary constraints, certain tasks, performance frequencies, or both may be permanently reduced or eliminated by the City upon providing the Contractor with thirty (30) calendar days advance written notice during any term of this contract.

- S.17 **WARRANTY.** The Contractor warrants that all services will be performed in a good, workman-like and professional manner. Unless otherwise agreed, the Contractor warrants that supplies shall be new, unused, of most current manufacture and not discontinued, shall be free of defects in materials and workmanship, shall be provided in accordance with manufacturer's standard warranty for at least one (1) year unless otherwise specified, and shall perform in accordance with manufacturer's published specifications. The Contractor warrants it has title to, or the right to allow the City to use, the supplies and services being provided and that the City may use same without suit, trouble or hindrance from the Contractor or third parties.
- S.18 **CONFLICT OF INTEREST.** Pursuant to A.R.S. § 38-511, the City Manager or his authorized agent may cancel any contract(s) resulting from this request within three years after award, without penalty or further obligation, if any person significantly involved in initiating, securing, drafting, or creating the contract for the City becomes an employee or agent of the Contractor.
- S.19 **QUANTITIES.** Any listing in this request referencing quantities or performance frequencies represent the City's best estimate of current requirements, but shall not bind it to purchase, accept or pay for services which exceed its actual needs.
- S.20 **INDEMNIFICATION/LIABILITY.** The Contractor agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' and expert witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the City) and all other types of claims resulting from the actual or alleged negligence, misconduct, or fault of the Contractor resulting from the acts or omissions of the Contractor, its employees, agents, or subcontractors in the performance of the contract. The Contractor shall assume risk of loss until delivery to the City's facility. The Contractor shall do nothing to prejudice the City's right to recover against third parties for any loss, destruction, or damage to City property, and shall at the City's request and expense, furnish to the City reasonable assistance and cooperation, including assistance in the prosecution or defense of suit and the execution of instruments of assignment in favor of the City in obtaining recovery. In any instance where the Contractor has accepted a tender from the City, the Contractor agrees to update the City during the course of the litigation and to timely notify the City of any issues that may involve the independent negligence of the City that is not covered by the tender.

Without limiting the foregoing, the Contractor shall, without limitation, at its expense defend the City against all claims asserted by any person that anything provided by the Contractor infringes a patent, copyright, trade secret or other intellectual property right and shall, without limitation, pay the costs, damages and attorneys' fees awarded against the City in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly of any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement. If a preliminary or final judgment shall be obtained against the City's use or operation of the items provided by the Contractor hereunder or any part thereof by reason of any alleged infringement, the Contractor shall, at its expense and without limitation, either (a) modify the item so that it becomes non-infringing; or (b) procure for the City the right to continue to use the item; or (c) substitute for the infringing item other item(s) having at least equivalent capability; or (d) refund to the City an amount equal to the price paid, less reasonable usage, from the time of installation acceptance through cessation of use, which amount shall be calculated on a useful life not less than 5 years, and plus any additional costs the City may incur to acquire substitute supplies or services.

## STANDARD TERMS AND CONDITIONS

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The City assumes no liability for actions of the Contractor and shall not indemnify or hold the Contractor or any third-party harmless for claims based on this contract or use of the Contractor provided supplies or services.

Neither party shall be liable for incidental, special or consequential damages.

S.21 **INSPECTION OF RECORDS, FACILITIES AND EQUIPMENT.** The Contractor shall preserve the records required under this contract for a minimum of two years after the expiration of the contract. The City or its authorized agent reserves the right to inspect any records, facilities and equipment used or proposed to be used by the Contractor for the performance of work specified herein. In addition, the City may inspect any and all payroll, billing or other relevant records kept by the Contractor in relation to the contract. The Contractor shall permit such inspections and audits during normal business hours and upon reasonable notice by the City. The audit of records may occur at the Contractor's place of business or at City of Mesa offices, as determined by the City.

S.22 **INDEPENDENT CONTRACTOR.** It is expressly understood that the relationship of the Contractor to the City shall be that of an independent Contractor.

The Contractor assumes full responsibility for all of the duties and responsibilities of the contract. The City assumes no liability or responsibility for work performed by any subcontractor. The Contractor shall notify the City any time a subcontractor is hired, and the City shall have the right to require the Contractor to submit an affidavit for settlement of claims prior to receiving payment for subcontracted work.

The Contractor shall pay all just claims due for services performed by employees or subcontractors, and for all material and equipment furnished or rented which is actually used in the performance of this contract. Upon request, the Contractor shall furnish satisfactory evidence that all of said persons have been fully paid.

S.23 **SUBSTITUTION OF GOODS OR SERVICES.** Should the Contractor fail to meet its contractual obligations, at its option and without notice the City may secure substitute services or goods. If the cost of obtaining substitute services or goods exceeds the contract price, the difference shall be charged back to the Contractor, or if no monies are owed the contractor/vendor, it shall promptly reimburse the City for such costs. The Contractor shall reimburse the City for any and all costs, fees, and expenses incurred in obtaining substitution services/goods and expended in obtaining reimbursement, including but not limited to administrative expenses, attorney's fees and costs.

S.24 **PERFORMANCE SECURITY.** If required herein, the successful Offeror, simultaneously with the execution of the Contract, will be required to furnish a Performance Security (Refer to i.5) The Security may be submitted in one-year increments and in any one of the following forms: an executed surety bond issued by a firm licensed and registered to transact such business with the State of Arizona; cash; certified check, cashier's check or money order payable to the City of Mesa (personal and company checks are not acceptable); an irrevocable letter of credit; certificate of deposit or any other form of deposit issued by a financial institution and acceptable to the City. If the Contractor fails or refuses to fully comply with the terms and conditions of the contract, the City shall have the right to use all or such part of said Security as may be necessary to reimburse the City for loss sustained by reason of such breach. The balance of said Security, if any, will be returned to Contractor upon the expiration or termination of the contract.

S.25 **COOPERATIVE USE OF CONTRACT.** The City has entered into various cooperative purchasing agreements with other Arizona government agencies, including the Strategic Alliance for Volume Expenditures (SAVE) cooperative. The contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of the Contractor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency.

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 others.

S.26 **PUBLIC RECORDS.** The Offeror acknowledges that the City is a public entity, subject to

## STANDARD TERMS AND CONDITIONS

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Arizona's public records law (A.R.S. § 39-121 et. seq.). Submission of a proposal may result in the disclosure of any aspect, part or portion of the proposal. Offeror hereby grants the City permission to copy all parts of its proposal, including without limitation any documents and/or materials copyrighted by the Offeror. The City's right to copy shall be for internal use in evaluating the proposal, or in response to a public records request under Arizona's public records law or to a subpoena or other judicial process.

- S.27 **EXCLUSIVE POSSESSION.** All data provided by the City as well as all services, information, computer program elements, reports and other deliverables, which may be created under this contract, are the sole property of the City and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- S.28 **RESERVATIONS.** No term or provision of the contract shall be deemed to be waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. Failure or delay to exercise any rights or remedies provided herein or by law or in equity, or the acceptance of or payment for any goods or services hereunder, or approval of design, shall not release the other party of any of the warranties or other obligations of the contract and shall not be deemed a waiver of any such rights or remedies.
- S.29 **FORCE MAJEURE:** Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, labor or material shortages, fire, flood, explosion, legislation, and governmental regulation.

The party whose performance is so affected shall promptly notify the other party of all pertinent facts and take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so, or to minimize or eliminate the effect thereof. It is understood and agreed that settlement of strikes or other labor disputes shall be at the sole discretion of the party encountering the strike or other dispute and that the inability of Contractor or its subcontractors to meet the requirements of this Agreement as a result of labor strikes or disputes shall not be deemed to be a Force Majeure.

- S.30 **USE OF NAME.** Contractor shall not use the name of Mesa in any advertising or publicity without obtaining the prior written consent of Mesa.
- S.31 **SUPERSEDING EFFECT.** The contract documents resulting from this solicitation shall supersede all prior oral or written agreements, if any, between the parties, and shall constitute the entire agreement between the parties with respect to the work to be performed.
- S.32 **APPLICABLE LAW.** This contract shall be governed by the law of Arizona. The forum selected for any proceeding or suit in law or equity arising from or incident to this Agreement shall be Maricopa County, Arizona.
- S.33 **OFFICIAL SOLICITATION DOCUMENT.** Changes to the solicitation document made by an Offeror may not be acknowledged or accepted by the City. Award or execution of a contract does not constitute acceptance of a changed term, condition or specification unless specifically acknowledged and agreed to by the City. The copy maintained and published by the City shall be the official solicitation document.
- S.34 **FUEL CHARGES AND PRICE INCREASES.** No fuel surcharges will be accepted. No price increases will be accepted without proper request by Contractor and response by the City's Purchasing Division

## **SPECIAL TERMS AND CONDITIONS**

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**SP.1 REGULARLY SCHEDULED AUCTIONS**

The Contractor shall have and conduct regularly scheduled public sales and shall provide the City with a listing of dates and times of scheduled sales. The Contractor shall be a valid Arizona Automobile Dealer License, and provide notary services.

**SP.2 TRANSPORTING VEHICLES AND EQUIPMENT**

The Contractor shall arrange the transfer of vehicles and equipment from City facilities to the auction/storage site within five (5) business days after notification. The Police Department may deliver seized vehicles and merchandise to the contractor's site. The City shall notify the Contractor by telephone of vehicles and equipment to be sold at auction as well as provide a detailed list of equipment including old equipment number, make, model, year, and mileage. Consideration for using transport services to obtain best pricing for the City is desired. The City reserves the right to transport vehicles, if it's determined to be in the City's best interest.

**SP.3 VEHICLE PREPARATION**

The contractor shall be responsible for the careful removal of all City decals and City identification numbers on City vehicles and equipment prior to sale. The contractor shall also be responsible for the removal of push bars and prisoner divider screens on public safety vehicles. Items removed may be auctioned or returned to the City at the City's request. A statement describing how each removal will be performed must be included with the proposal.

The Contractor shall include optional pricing for detailing each vehicle/equipment, at a minimum the detailing shall include; washing, cleaning seats, floors, dash, etc. The contractor must submit a statement describing the services to be provided for the fee proposed. A price must also be submitted for providing a new battery if it is needed to make the vehicle operable. Permission must be given by the City before a battery is replaced.

**SP.4 SECURED FACILITY**

The Contractor shall have a secured facility and auction site located in the metro Phoenix area and shall be responsible for the protection of City property assigned to their facility before and after the each auction. The Contractor shall handle any disputes that arise during and following the auction.

**SP.5 DAMAGE AND VANDALISM**

The Contractor shall notify the Fleet Services Division if damage is caused to City property while in the possession of the Contractor. The Contractor shall be liable for the cost to repair such damage, or pay compensatory damages equal to the damage incurred.

**SP.6 ADVERTISING**

At a minimum, the Contractor shall place a Notice of Public Auction in a least one newspaper (Arizona Republic or Tribune) two (2) weeks prior to the auction of City property. The notice shall contain a brief description of the types of items to be sold, the date, auction time and location. Advertising through the Internet is highly desired. In addition, the Contractor must submit a proposed advertising/marketing plan, which would maximize participation and revenue for vehicles sold.

**SP.7 REGISTRATION**

The Contractor shall require all bidders to be registered prior to the auction in order to bid. Bidders should be allowed to sign up and view the items before bidding starts. All City items are to be sold as is, where is with no warranties expressed or implied.

**SP.8 DOCUMENTATION AND RECORD KEEPING**

The Contractor shall be responsible for coordination of all auction record keeping activities. The Contractor shall provide a complete itemized accounting to the City of all records related to the sale. As a minimum, these records shall include: a copy of the advertisement, City identification numbers, VIN numbers, prices paid for each vehicle, commission charged, towing costs, parts

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## SPECIAL TERMS AND CONDITIONS

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used, detailing/cleaning and decal removal, and other services provided. For Fleet Services, the payment check and a copy of the reconciliation statement shall be submitted to City of Mesa Customer Service, Attn. Customer Service Supervisor, P.O. Box 1466, Mesa, AZ 85211-1466, within fourteen (14) calendar days after the sale.

**SP.9 CITY'S RIGHTS**

The City reserves the right to add and delete vehicles and equipment from the auction up to the day of the auction, to visit the storage facility during normal working hours to inspect the thoroughness of preparation prior to sale, to attend each auction at no charge, and the right to set minimum bids on City property.

**SP 10 FEE STRUCTURE**

The Contractor shall, as its compensation for Auctioneer services, receive a commission based on a percentage of gross sales proceeds generated from City surplus, plus any approved fee as outlined on Pricing and Compensation. The Contractor shall submit an itemized price list of services on Pricing and Compensation and describe any other charges not stated.

**SP.11 PAYMENTS**

For Fleet Services Department the Contractor shall submit a copy of the reconciliation and payment to the person and address designated in Documentation and Record Keeping (SP 8) (less any commissions and fees) within fourteen (14) calendars days following the sale of City vehicle or equipment. A copy of all items must be sent to the City of Mesa, Fleet Services Director or designee, as listed below For Mesa Police Department (MPD), the Contractor will collect and remit all appropriate sales tax, and to separately account for and remit police auction proceeds to the Mesa Police Department for merchandise and vehicles referred by MPD within fourteen (14) calendar days following each auction, to the Mesa Police Department as listed below.

Fleet Services  
Attn: Fleet Auction Manager  
P.O. Box 1466  
Mesa, AZ 85211-1466

Mesa Police Department  
Attn: Metro Operations Commander  
P.O. Box 1466  
Mesa, AZ 85211-1466

**SP.12 NON-EXCLUSIVE CONTRACT**

This is a non-exclusive contract (S.11). The City does not guarantee any minimum or maximum quantities or revenue for the contracted provider.

## DETAILED SPECIFICATIONS

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1. **PROJECT MISSION.** We are dedicated to providing superior services to our customers in order to improve the quality of life for Mesa residents, businesses and visitors. We are looking for vendors who share that dedication and will help us meet that goal.
2. **PROJECT GOAL.** The City of Mesa is seeking proposal from established, experience and qualified companies to provide Auctioneer services for surplus City vehicles and equipment. The Contractor shall also accept merchandise from the Police Department for sale at public auction for seized/confiscated vehicles and other merchandise. The City will enter into an agreement for a full service Auction dealer. All auctions shall be held on a regular time interval, as determined and identified by the Contractor, at an off-site location to expedite the sale of surplus vehicles and equipment. The Contractor shall provide a turnkey service to dispose of City vehicles and equipment
3. **BACKGROUND.** The City currently uses a full service auction company to dispose of City vehicles and equipment. In the past, the number of vehicles and equipment being auctioned has been approximately 80 per year. The variety of vehicles and equipment sold may include but not be limited to police cars, pick-up trucks, utility trucks, back hoes, motorcycles, and refuse trucks.
4. **SCOPE OF WORK.** The Contractor will be responsible for: transporting City vehicles and equipment to a secured auction site, removal of all City decals and insignias, providing all labor to perform all sales transactions, advertising, collecting funds, arranging title transfers and preparing/submitting the documentation for each transaction.
5. **RESPONSE ELEMENTS.** The following should be included in your proposal:
  - Statement of Qualifications
  - Vendor Questionnaire
  - Description of Services
  - Copy of 2008 & 2009 Financial Statement
  - Advertising/Marketing Plan
  - Pricing and Compensation
  - Exceptions, Confidential & Additional Materials
  - Contract Form and Signature
  - Vendor Information
6. **STATEMENT OF QUALIFICATIONS.** The experience of your firm and its staff as it relates to his type of service. Your statement should include names of primary officers and principals in local operations, the size of crews used during each auction and how many years you have been in the business of providing auction services. The statement must also include a listing of all pertinent licenses currently held by the Contractor.
7. **DESCRIPTION OF SERVICES.** Offerors must submit a detailed description or plan of operations that demonstrates an understanding of the capability to assume responsibility to publicly auction City vehicles and equipment. The plan should detail methods of advertising, vehicle/equipment preparation, conducting and accounting for each auction. The plan should address at a minimum:
  - Frequency and dates of each auction.
  - Location of storage, preparation and auction site. The storage and auction location must be in the metropolitan Phoenix area.
  - A compensation and fee schedule must be provided.
  - The method and cost to transport vehicle(s) and heavy equipment from the City of Mesa to the auction or storage site during normal weekdays.
  - A statement describing the type of detailing performed on each vehicle in preparation for the auction.
  - A statement describing the type of security utilized to safely store vehicles and equipment awaiting auction. Fully explain the City's and the auctioneer's liability during storage periods
  - A statement describing the security and size (square footage) of your facility to hold public auctions. Include the amount of time at current facility. Fully explain the City's and the auctioneer's liability during auction periods.

## DETAILED SPECIFICATIONS

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- A list of the staff and their responsibilities utilized during each auction.
- Procedures to physically arrange set up and conduct public auctions.
- Advertising/marketing plan for maximizing participation/revenue.

All responses must include a fully completed, most current W-9 form. Failure to include the W-9 will not disqualify your bid.

8. **INSURANCE REQUIREMENTS.**

Contractor shall maintain coverage for all general, contractual and products liability risks normally associated with the goods and materials and/or services covered by this contract.

The Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence Commercial General Liability insurance, including Contractual Liability. For General Liability insurance, the City of Mesa, their agents, officials, volunteers, officers, elected officials or employees shall be named as additional insured

The Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence Automobile Liability insurance.

The Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statute.

Prior to the execution of the Contract, the Contractor shall provide the City with a Certificate of Insurance (using appropriate ACORD certificate) SIGNED by the Issuer, applicable endorsements, and the City reserves the right to request additional copies of any or all of the above policies, endorsements, or notices relating thereto.

When the City requires a Certificate of Insurance to be furnished, the Contractor's insurance shall be primary of all other sources available. When the City is a certificate holder, the Contractor agrees that no policy shall expire, be canceled or materially changed to affect the coverage available without thirty (30) calendar days advance written notice to the City.

All insurance certificates and applicable endorsements are subject to review and approval by the City's Risk Manager.

# Statement of Qualifications

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With 24 years in business, Sierra Auction Management, Inc. is the most capable Auctioneer in the State of Arizona at successfully remarketing City and Police Department vehicles, equipment, and non-vehicle merchandise, for the highest possible price. Sierra has molded its internal systems and procedures, marketing and advertising, and our team, to specifically address the unique needs of all government agencies. Sierra is constantly refining and improving our systems, checklists and procedures to ensure that we continue to meet the needs of our governmental consignors. Our experience is not limited to being the incumbent contractor with the City of Mesa, but also comes from managing the assets for the most significant number of government clients of any auctioneer in the State of Arizona. These include, but are not limited to, the following list of current customers (in alphabetical order):

- Apache County Law Enforcement
- Apache Junction Police Department
- Apache Junction Fire District
- Attorney General's Office State of Arizona
- Arizona City Fire District
- Arizona Department of Public Safety (DPS)
- Avondale Police Department
- Buckeye Police Department
- Chandler Police Department
- City of Williams
- City of Avondale
- City of Casa Grande
- City of Chandler
- City of Coolidge
- City of El Mirage
- City of Glendale
- City of Goodyear
- City of Maricopa
- City of Mesa
- City of Peoria
- City of Quemado, NM
- City of Scottsdale
- City of Surprise
- City of Tempe
- City of Tolleson
- Coconino County
- Coconino County Attorney
- Coconino County Police
- Coconino County Sheriff's Office
- Counter Narcotics Alliance (CNA)
- Fire District of Sun City West
- Fort McDowell Police Department
- Fort McDowell Yavapai Nation

- Gilbert Police Department
- Glendale Police Department
- Goodyear Police Department
- La Paz County Narcotics Task Force
- La Paz County Sheriff's Department
- Maricopa County
- Maricopa County Sheriff's Office
- Maricopa County Attorney's Office
- Maricopa County Clerk of the Court
- Mesa Police Department
- Peoria Police Department
- Phoenix Police Department
- Pima County
- Pima County Sheriff's Office
- Pinal County
- Pinal County Sheriff's Office
- Salt River Project (SRP)
- Scottsdale Police Department
- Superior Police Department
- Tolleson Police Department
- Tonto Basin Fire District
- Tonto Village Fire District
- Town of Buckeye
- Town of Clifton
- Town of Florence
- Town of Fountain Hills
- Town of Gilbert
- Town of Miami
- Town of Paradise Valley
- Town of Prescott Valley
- Town of Superior
- Town of Wickenburg
- United States Postal Inspection Service
- United States Trustees Office
- Valley Metro Light Rail
- Valley Metro RPTA
- Yavapai County Antiracketeering
- Yavapai County Government
- Yavapai County Sheriff's Office
- Over 25 School Districts
- And hundreds of other satisfied clients

Our extensive experience as the leading Arizona based auctioneer for over 24 years, has allowed Sierra to develop proven, successful methods in the receiving, tracking, storing, protecting, processing, marketing, selling, and accurately reporting the sale of government vehicles, equipment, and merchandise, including seized and forfeited assets. In addition, our experience has taught us to continually sharpen those methods to adapt to the ever changing market and the needs of our customers. Sierra has stored and sold at fair market value as many as 800 vehicles in a single month.

This testifies to our ability to responsibly handle significant volumes of vehicle assets and still generate sizeable fair market sales results. In addition to our ability to responsibly market and sell vehicles and equipment, Sierra is uniquely equipped to maximize revenue on the sale of non-vehicle assets, as we sell upwards of 3,000 items/lots in a single auction sale. Sierra is indeed, a full service auction dealer.

### **Sierra Auction Staff**

While our extensive group of governmental clients is impressive, no less impressive are the many individuals that make up the team of professionals that work diligently to satisfy the specific needs of our clients. We are proud of the team of people that we have put together, as they are diverse, intelligent, professional, and knowledgeable. Sierra has 25 full time team members that make up our Phoenix operations. Among them are the following:

#### **Principals of Sierra Auction-** Roy Douglas, Robert Glovitz

- **Dan White, *President (Primary officer)***  
Dan's experience in the auction industry and equipment industry is extensive. He is well-equipped to oversee the operations of Sierra's Phoenix auction facility. Additionally, Dan shoulders the responsibility of ensuring that Sierra's team abides by all legal, regulatory and safety requirements as dictated by the State and/or other legal entities. Dan's experience in both the industry and with commercial vehicles and equipment is second to none- 15 years at Quinn Company (operations span fifteen counties throughout central and southern California) and another 15 years with Ritchie Brothers Auctioneers as Regional Manager in Arizona.
- **Doug Godfrey, *CEO (Primary officer)***  
Doug has over 25 years of experience in Sales, Marketing, Operations and Finance. This includes over 15 years of Executive leadership for small, entrepreneurial companies as well as large corporations. Doug has been awarded several performance awards based on excellence in revenue growth and profitable operations. His professional expertise will compliment the goals of Sierra to be a growth organization with a solid, service oriented infrastructure. Doug is also a Phoenix native and Graduate of Northern Arizona University with a Bachelors Degree in Business Management and Accounting.
- **Brett Higgins, *Vice President of Marketing, Lead Auctioneer, Lead Appraiser (Primary officer)***  
Brett has over 19 years of auction experience as a professional auction buyer, manager, and auctioneer. Brett is heavily enrolled in both the marketing and operations of Sierra for 6 years. Brett is also actively involved in promoting the auction industry, as can be seen by his memberships and affiliations.

#### ***Membership/Affiliation:***

- National Auctioneers Association (NAA)
- Arizona State Auctioneers Association (ASAA), Vice President of Board of Directors
- Certified Auctioneer (CA) (voted by the Continental Auctioneer's University as Best All-Around Auctioneer)
- Certified Real Estate Auctioneer (CREA)
- Certified Charity/Fund Raising Auctioneer (CCFA)
- Certified Personal Property Appraiser (CPPA)

- Uniformed Standards of Professional Appraisal Practice (USPAP) Guidelines
- Certified Farm, Heavy & Industrial Equipment Appraiser
- Certified Firearms Appraiser (CFA)
- Certified Antiques Appraiser (CAA)
- Certified Automobile Appraiser- Collector, Antique, Auto & Truck
- Multiple Association Affiliations and Board Positions

- **Donald D. Clark, CAGA, USPAP**

Don is the former owner of Sierra. He is an experienced business executive with decades of corporate management experience and an extensive background in advertising and marketing.

*Membership/Affiliation:*

- National Auctioneers Association (NAA)
- National Association of Bankruptcy Trustees (NABT)
- Certified Appraisers Guild of America (CAGA)
- Uniformed Standards of Professional Appraisal Practice (USPAP) Guidelines

- **Daren Shumway, Senior Auctioneer/CAI**

Daren is the best in the industry. He brings with him over a decade of experience and CAI designation issued by the National Auctioneer's Association as a graduate of the Certified Auctioneers Institute. He has extensive experience in selling commercial vehicles, equipment and surplus. Daren is also the Secretary/Treasurer of the Arizona State Auctioneer's Association.

- **Bobby Ehlert, Senior Auctioneer**

Bobby is a 2<sup>nd</sup> generation auctioneer, and is the 2009 Arizona State Auctioneers Association Champion Auctioneer, recognized as the best in the State. Bobby sells vehicles and commercial equipment for Sierra. Bobby is a member of the National Auctioneers Association.

- **Shelly Sullivan, Asset Liquidation Specialist, Legal Specialist**

Shelly has been with Sierra since 1999. Shelly is the key point of contact for all consignor settlements and reporting. Because of Shelly's experience in the industry and in working directly with Sierra's clients, she additionally plays a pivotal role in the marketing efforts of Sierra.

*Membership/Affiliation:*

- National Association of Bankruptcy Trustees (NABT)
- American Bankruptcy Institute (ABI)

- **Sherri Jones, Marketing Manager**

Sherri manages all print, mail and online marketing/advertising for Sierra, including Search Engine Optimization (SEO) and web site design and maintenance. Sherri has 15+ years of corporate marketing experience, and is adept at identifying buyer trends and adopting effective advertising methods.

- **Sophia Nareau, Marketing Assistant**

With our extensive online marketing and auction program (including website, online static

bidding, and live online bidding) and our broad print advertising campaigns, considerable time and effort are put into photographing and cataloging the equipment and vehicles that will be sold. Sophia is responsible for effectively producing the materials on a time-critical basis. In addition, Sophia acts as a trouble shooter, effectively resolving auction day buyer questions and concerns. Sophia has been a member of Sierra's team for 5 years.

- **Beth Calder, *Office Manager - Phoenix***  
Beth manages the day to day office operations of the Phoenix facility, including all Human Resources (HR), insurance and cashier's office transactions. Beth also assists with the administration of appraisals and the scheduling of auction staff. Beth has over 20 years of administrative and customer service experience.
- **Luis Morales, *Vehicle and Equipment Manager- Phoenix***  
Luis has been with Sierra for over 12 years, and is expert at the vehicle check-in process utilizing VIN Explosion Technology and at the staging of vehicles to maximize sales value. Additionally, Luis manages the detailing and decal removal operations at Sierra.
- **Mauricio Diaz, *Inventory Tracking Specialist (non-vehicle) – Phoenix***  
Mauricio has been with Sierra for nearly 5 years. Mauricio carefully catalogs, categorizes and tracks each non-vehicle asset pre and post sale. Mauricio also applies asset and/or case numbers to each item that requires a specific designation. Mauricio speaks fluent English and Spanish which allows for successful communication with all of Sierra's clients.
- **Christine Nareau, *Title Specialist – Phoenix***  
Chris has been with Sierra for over 12 years and oversees the processing of as many as 500 titles a month. In addition, Chris also administers all necessary legal documentation as required by government clients, and Motor Vehicle Department (MVD) requirements.
- **Ada Amador, *Receptionist, Title Processing Assistant – Phoenix***  
Ada handles the majority of incoming calls in our Phoenix offices. In addition, Ada assists in overseeing daily office operations and in ensuring that vehicles are properly titled prior to each sale, all MVD records are up to date, and that title transfers have been properly conveyed. Ada also supervises invoice processing, data entry, filing, record storage, bilingual telephone communications, agency case number tracking, and numerous other duties. Ada is fluent in English and Spanish.
- **Additional Staff as it relates to this type of service**  
Sierra has numerous other team members that are actively involved in the preparation for and the conducting of the auction events.

#### **Size of crews used during each auction**

During each auction Sierra staffs between 80 and 100 team members to fulfill the many responsibilities involved in ensuring that the auction is safe, secure, professional, and profitable.

#### **Licensure**

Sierra Auction takes very seriously the adherence to every necessary licensing requirement in order to operate in full compliance to all laws, rules, and regulations in the Cities and States in which we operate. A list of the licenses pertinent to the fulfillment of the eventual award of this City of Mesa contract is found below, and copies of those licenses are located behind Tab #1.

- City of Phoenix- Auction House License (#87007148)
- City of Phoenix- Privilege (Sales) Tax License (#87007148)
- Arizona Department of Transportation- Motor Vehicle Division- Used Motor Vehicle Dealer in Maricopa County- License (#L00002735)
- Arizona Department of Revenue License & Registration Section- Transaction Privilege Tax License (#20171628)
- City of Mesa- Revenue Collections Operations Licensing Office- Transaction Privilege (Sales) and Use Tax License (#00239622)

# Description of Services

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Sierra has shaped their business to exactly address the varied needs of governmental clients, and with the 24 years of experience that we've had to do so, we are perfectly suited to serve the City of Mesa in every capacity. In fulfilling the needs of the City, we have shaped our organization to function in a way that reduces the labor and time of the City's personnel, and otherwise maximizing revenue. Sierra considers every facet of our business to be of great importance, whether it be the laborious process of decal removal, or the key work of advertising and marketing.

This RFP requests that the offeror "submit a detailed description or plan of operations that demonstrates an understanding of the capability to assume responsibility to publicly auction City vehicles and equipment"- nobody is more understanding of this, as Sierra has had the benefit of working with the City and their personnel for a decade. Sierra still gives significant thought to how we can improve the level of service and fulfillment that we offer to the City, including plans to continue services that have been identified as most effective, and other plans in development that we feel will enhance the City's experience even further.

## **Frequency and dates of each auction**

Sierra currently holds monthly public auctions. Well in advance of each calendar year, Sierra identifies the dates that best contribute to auction participation; avoiding holidays that might prohibit or inhibit customers from attending the auction. Those dates are provided to the City well in advance of any legal noticing requirements or for any other purpose. The dates for the remainder of 2010 are as follows:

- June 5, 2010
- July 10, 2010
- August 14, 2010
- September 11, 2010
- October 9, 2010
- November 6, 2010
- December 4, 2010

## **Location of Storage, Preparation, and Auction Site**

All of Sierra's storage, preparation, and auction space are located at our singular property located at 3570 W Grand Avenue, Phoenix, AZ 85019. Sierra is located in Phoenix at the bustling intersection of three streets- Grand Avenue, 35<sup>th</sup> Avenue, and Indian School Road; greatly contributing to our exposure to the public- an effective advertisement. Our goal is to be the most effective well-suited facility to offer the City a full service, single-source vendor for auctioneering services. Sierra recently acquired via cash purchase, an additional 8½ acres of land adjacent to our existing facility; now totaling over 12 acres of A1 Zoned (full use) property.

In addition, Sierra has considerable *indoor* temperature controlled selling and storage space, outdoor *covered* selling and storage space, and room for anticipated growth. Sierra's facility in

Phoenix is uniquely suited to maintain assets of nearly every commodity in a manner that offers maximum protection and merchantability. Sierra may be the only auction company in the Southwest to offer every combination of selling facility that governmental agencies need to effectively secure, protect, maintain and remarket vehicles, equipment, and seized & forfeited assets under one roof. Sierra offers multiple indoor staging and selling spaces to maintain the condition and maximum value of personal property. For jewelry, coins, furniture, instruments, collectibles, and other environmentally sensitive items, and small valuable items, Sierra has air-conditioned indoor storage and selling spaces which are secured under lock and key via vault or other secured means to maintain their protection and marketability. For larger and/or less sensitive items, Sierra has additional temperature controlled indoor staging and selling areas that remain closed to the public until presented for eventual sale. For industrial tools, construction materials and other durable goods, Sierra has significant covered storage and selling areas, in addition to over 12 acres of additional area to maintain the safety and security of personal property assets of every kind.

Unlike our competitors, Sierra also has *sufficient, legal, and secured parking* for over 680 vehicles (500+ of which are paved parking areas). Sierra staff's each of their parking areas with security personnel to ensure that customers are able to park with confidence that their vehicles will be safe and secure while attending our auctions and auction preview events.

In addition to our current operations, Sierra is working on the next stage of buyer and seller benefit, in the form of Sierra's ***Drive-Thru Vehicle Auction***. Sierra continues to plan for the future, which is why we are currently contracting with designers, engineers and construction companies to develop and construct our new 6,000 square foot, 2-Lane drive-thru auction facility, slated to be fully operational as of October 31, 2010. This new drive-thru vehicle auction benefits the City of Mesa and all of Sierra's vehicle and equipment consignors by allowing buyers to see vehicles run and drive, resulting in even higher selling prices. This further allows us to control the environment: sound, temperature, the elements, and crowds, resulting in a more positive buyer and seller experience. A significant and relevant feature of the new structure, is that it's construction and energy efficiency coincide with Sierra's and certainly the City of Mesa's mutual appreciation for the principles of resource stewardship: It is a "Sprung Structure" which, by design, is environmentally friendly- eliminating the substantial waste associated with conventional construction (pre-fabricated prior to arrival at Sierra's site). Additionally, Sprung Structures are energy efficient and provide significantly higher R values than typical conventional construction. Skylights and windows take advantage of natural light, reducing energy waste. Sierra is excited about this new benefit, as will our consignors when they receive their settlements.

**A compensation and fee schedule must be provided**

Please see the requested compensation and fee schedule as outlined in the "Pricing and Compensation" portion of this RFP, identified as pages 23, 24 and 25.

**The method and cost to transport vehicle(s) and heavy equipment from the City of Mesa to the auction or storage site during normal weekdays**

Please see the requested method and cost as outlined in the "Pricing and Compensation" portion of this RFP, identified as pages 23 and 24.

**A statement describing the type of detailing performed on each vehicle in preparation for the auction.**

Vehicle and Equipment Detailing and Preparation are of great importance to ensuring maximum financial benefit is realized to the City. Sierra is equipped with both the equipment and the staff to professionally detail all vehicles and equipment. Standard detailing services include (at a minimum):

- Exterior wash including tire and rubber/plastic dressing, wheel well cleaning and painting (as necessary)
- Interior cleaning including debris removal, vacuum of floor panels, cleaning of seats, and dash cleaning and dressing
- Engine compartment cleaning and degreasing
- Hand wax (when appropriate as determined by Sierra Vehicle Preparation personnel)

Sierra has been able to provide our standard detailing services without charge to the City because of well-negotiated contracts with suppliers like National Carwash Systems, and others. When appropriate, Sierra also hand waxes vehicles or equipment to realize more significant value.

As vehicles and equipment arrive at Sierra's facilities, they are inventoried using state of the art wireless VIN Explosion technology, which allows us to read vehicle VIN data and immediately transfers or parses that data into our servers automatically- identifying year, make, model, engine, transmission, and features. Additional data is also obtained and uploaded by our check-in personnel such as mileage, condition, and additional features. This allows us to quickly identify high value equipment and immediately begin marketing and advertising. We upload this data to the internet on a daily basis so that our customers can view the most current inventory at all times.

Additional services, like full professional decal removal are also available to the City as needed. Decal removal is performed using the most effective equipment, non-obtrusive chemicals, and by well trained and experienced personnel that are able to successfully remove decals and residual adhesive, without damage paint surfaces. In addition to the professional removal of decals, Sierra is also expert at the de-installation of push bars and divider screens from public safety vehicles, without damage to vehicle exteriors or interiors.

Sierra also stocks a full supply of new batteries, they inflate tires, and performs preapproved mechanical repair; recognizing that a vehicle that runs and looks good will realize greater selling value.

Additional attention is given to the order in which vehicles and equipment are staged to be sold, as seemingly small details equate to more significant financial returns.

**A statement describing the type of security utilized to safely store vehicles and equipment awaiting auction. Fully explain the City's and the auctioneer's liability during storage periods.**

Sierra has multiple, *24-hour*, in person security personnel, resident at our facility for 365 days per year. Additionally, Sierra has K9 security, and a newly installed (November 2009) 17-camera, digital video security system enabling us to review upwards of 30 days of video footage to the second. To further protect assets, Sierra has an exceedingly comprehensive group of insurance coverage already in place, eliminating liability to the City of Mesa. Our facility is also surrounded by a

combination of iron and steel fencing, block walls, and is completely surrounded with barbed wire and in many cases multiple lairs of fencing to prohibit entry to the property. Privacy screens are suitably installed to reduce visibility to passersby. Vehicles of considerable value are stored in one of Sierra's indoor storage garages for additional protection.

Sierra has been exemplary in securing assets awaiting sale, no matter whether they are small, large, expensive or inexpensive.

**A statement describing the security and size (square footage) of your facility to hold public auctions. Include the amount of time at the current facility. Fully explain the City's and the auctioneer's liability during auction periods.**

Sierra has been located at their current auction facility for upwards of 20 years. Sierra has expanded their acreage, but land acquisition has been for property adjoining our existing property. Below is a description of each of our selling areas, size, form of security, and general use:

**Northeast Equipment and Vehicle Yard**

This high visibility car lot is used for the sale of featured high value equipment and vehicles. Sierra sells approximately 150 units from this paved, yard during the auction. This lot is protected by a combination of iron gates, fencing, building structure, uninterrupted razor wire, and high impact locks. Within visual range of our 24-hour, manned security trailer and patrolled by K-9 security, this area is secure and perfect for protecting and selling high value vehicles and equipment. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

**Northwest Equipment and Vehicle Yard**

This selling area accommodates the sale of an additional 200 units of equipment, vehicles and trailers. Also secured by block walls and fencing equipped with razor wire, assets are secure and in close proximity of our 24-hour security trailer, and additionally patrolled by our K-9 security. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

**East Equipment and Vehicle Yard**

The recent addition of this acreage allows us to receive inventory more efficiently, and gives us the ability to sell an additional 550 vehicles. Additionally, we are able to accept late arrival items. Unique among auctioneers, Sierra's facility can accept items every work day of the month. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

**West Surplus Yard**

With row after row of surplus industrial and construction materials, this open air, compacted gravel yard is perfectly suited to handle upwards of 365 pallets for sale at auction. The West Surplus Yard is bordered by 16 foot block walls to the South, West and East, and razor-wired fencing to the North. The 24-hour security trailer is centrally located and therefore within close range to this area. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

### **East Surplus Yard**

Just to the East, over 310 additional pallet lots are staged for sale in this surplus yard. These include older generation bulk electronic lots and miscellaneous. This area sits adjacent to the West Surplus Yard and is secured equivalently. Sierra installed a concrete pad to support thousands of square feet of double layer outdoor storage to keep certain goods off the ground for protection against water and other ground related causes. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

### **"The Barn"**

This flexible paved space is a 1,250 square foot covered building, enclosed on 3 sides. This selling area is reserved for industrial tools, machinery, construction supplies and any other commodity for which the area is well suited. This space is protected from the elements and from potential theft or destruction, as it sits within 5 feet of our 24-hour security trailer. Sierra's shed area has asphalt flooring with thousands of square feet of covered, protected selling table and floor space to sell items requiring protection from the elements. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

### **Tarmac**

The Tarmac is a 5,000 square foot, covered, asphalt selling area which is subdivided to accommodate the sale of industrial surplus, restaurant equipment, and similar assets. Positioned in the center of Sierra's facility, the tarmac benefits from the security of all the surrounding areas. The Tarmac boasts a clear height in excess of 20 feet. This area offers monitored video surveillance to protect assets from potential theft or vandalism.

### **Primary Indoor Selling Rooms:**

**Room #1-** Is fully enclosed and air conditioned. Room #1 has 2 bath rooms and security cameras. Room #1 is set up for the sale of high value small items such as jewelry, coins, and collectibles; glass display cases protect the items in Room #1 from theft or damage. Also featured in this room are high value furniture, artwork and electronics. The space is approximately 2,000 square feet including the 3 additional rooms that comprise Sierra's Room #1 area. Room #1 offers monitored video surveillance to protect assets from potential theft.

**Room #2-** This room boasts of over 5,000 square feet of selling areas, and is the perfect selling space for higher value small items including, but not limited to, tools, audio equipment, high end electronics, furniture and more. In addition to being protected by video surveillance, smaller electronics and higher value items are stored under lock and key in cages; these items can be viewed by potential buyers with the assistance of Sierra's security personnel.

**Room #3-** Frequently featured in Room #3 are industrial manufacturing equipment, high end electronics, and specialized equipment. Room #3 offers over 5,000 square feet of selling area. Room #3 is cooled by fans and large swamp coolers. Room #3 offers video surveillance, a high security safe, and equipment cages for items such as laptops and smaller industrial assets.

Sierra makes every effort to protect and secure assets in each of their storage and selling areas. The combination of security and insurance coverage (including hard to obtain Garage Keepers Insurance), exempts the City of Mesa from liability once in the custody of Sierra Auction.

### **A list of the staff and their responsibilities utilized during each auction**

During the live auction event, responsibilities of oversight and performance are distributed and managed by the most experienced and appropriate member of Sierra's team. Those responsibilities are as follows:

- **Dan White-** Dan oversees all vehicle and equipment operations during the auction event. Additionally, Dan handles all customer service responsibilities related to the sale of vehicles and equipment.
- **Doug Godfrey-** Doug oversees all security, load out and cashiering operations during the auction event.
- **Brett Higgins-** In his role as Lead Auctioneer Brett manages all auctioneers and ringman during the auction event. This includes ensuring that each is assigned to the appropriate selling area, and that breaks are appropriately scheduled to prevent fatigue.
- **Donald D. Clark-** Don serves as a customer service liaison. Don is approachable and patient, and therefore perfectly suited to assist customers and make certain their questions have been appropriately answered.
- **Daren Shumway & Bobby Ehlert-** Daren & Bobby share the responsibility of auctioneering vehicles and commercial equipment. They work together to make certain that top dollar is achieved, and that neither they nor their customers are fatigued. In addition, both are bilingual auctioneers and are best suited to successfully communicate with all bidders.
- **Shelly Sullivan-** Shelly has the experience and expertise to successfully troubleshoot customer inquiries and, as necessary, address them systematically. Shelly also manages the auction clerks, to make certain that they are given breaks, and to ensure that they are performing efficiently and effectively.
- **Sherri Jones-** Sherri utilizes the auction event as an opportunity to identify marketing opportunities, to take photographs, and to develop customer relationships for future growth.
- **Sophia Nareau-** Sophia is the cashiering assistant and because of her technical savvy is responsible for auction day IT services.
- **Beth Calder-** Beth manages the cash room operations, deposits, and auction balancing. As a part of those responsibilities, Beth also schedules breaks for the cashiers.
- **Luis Morales-** Luis oversees the team of vehicle and equipment personnel to ensure that any/all start/run and that customers are safe during the auction event in our vehicle and equipment yards.
- **Mauricio Diaz-** Mauricio assists in security operations by scheduling breaks for security personnel. Additionally, Mauricio makes certain that the load out of assets is a smooth operation.

- **Christine Nareau-** Chris is responsible for the auditing of auction data input for the smooth and accurate cashiering operations.
- **Ada Amador-** Ada is the Lead Title Specialist and is responsible for managing the staff for successful transfer of titles and release of keys to buyers.
- **Additional Staff as it relates to this type of service**  
Up to 100 auction day team members with varying responsibilities are trained and experienced to fulfill all needed auction day operations.

**Procedures to physically arrange set up and conduct public auctions.**

Sierra Auction recognizes that a measure of sales value is demonstrated as the result of effectively staging vehicles and non-vehicle assets strategically. Therefore, the order in which items are sold, the time of day that they are scheduled to be sold, and the auctioneer selected to sell specific assets, and other *seemingly* insignificant considerations, all have an effect on the sales value obtained. Small details add up to large results.

# Advertising/Marketing Plan

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It's no coincidence that Sierra draws significantly more qualified buyers to their auctions than any competitor, resulting in the highest possible sales prices (Please see Tab #4 for auction attendance data). Our huge crowds are not just statistics; they are evidence that our efforts in recognizing how to find the *right* buyers have been very effective. We believe in a focused marketing effort that finds buyers for specific types of equipment and surplus. Sierra's extraordinary auction attendance and exceptional sales results are the direct outcome of a highly sophisticated, researched and targeted marketing and advertising program that effectively captures the right buyer for the specific asset they are seeking. Each auction and individual auction assets are marketed and advertised using numerous methods that are *appropriate* for the specific audience. Tremendous import and focus are aimed at drawing *qualified* buyers, in volume, to each auction. Our nationally recognized and award winning marketing team strives to be the best in the industry; utilizing multiple methods of marketing to achieve maximum results. Among those methods are the following:

## **Online/Internet:**

Sierra recognizes that there is some value in traditional marketing techniques and utilizes many- newspaper, yellow pages, limited radio, television via news related stories, press releases, printed mailers, etc. Sierra even prints full-color auction day catalogs including facility maps, auction schedule, calendar of annual monthly auction dates, and other helpful information (*examples of the catalog and selected additional advertisements are included behind Tab #5*). However, after considerable internal and external market studies, Sierra has dedicated the larger proportion of our marketing efforts and resources to more modern and effective marketing practices. Those intended efforts have contributed to all-time (25 year) record attendance numbers and auction prices for three of the last six months. Utilizing online local, regional, national, and international calendars, social networking platforms (Facebook, Twitter, MySpace, RSS Feeds, Blogs, and YouTube), Search Engine Optimization techniques, Link exchanges with numerous Cities, Counties, and other Government Agencies, and other advanced methods; Sierra is utilizing an effective balance of traditional marketing and techno-savvy marketing to capture a huge number of buyers from near and far. Sierra has also recently rolled out a new, user-friendly website with enhanced navigability, including the option to view the site in English or Spanish.

While many auction companies spend the bulk of their advertising and marketing dollars on local, limited reach, untargeted marketing (i.e. billboards, etc), Sierra has invested their marketing dollars on more impactful endeavors. A great proportion of that focus is that of additional online/internet marketing techniques. Among those is the use of extensive *Search Engine Optimization (SEO)* that has increased the exposure of City assets to a broader audience not only nationally, but internationally, and has enabled customers searching for specific assets to be able to find them and to compete against other qualified buyers. Vehicles are

immediately posted online to multiple websites in conjunction with our vehicle acceptance program and VIN explosion technology, resulting in considerable web traffic results. Vehicles are then viewed and described on numerous sites, to include that of the National Auctioneers Association (auctioneers.org), AuctionZip.com, azcentral.com, craigslist.com, the Arizona State Auctioneers Association (azauctioneers.org), auctionflex.com, PoliceAuctions.com and multiple other online calendars and search directories. In addition, vehicles are seen as a result of online redirects (links) from government sites such as the City of Mesa, City of Peoria, City of Tempe, City of Glendale, Chandler Police Department, City of Scottsdale, City of Maricopa, and numerous others; thereby increasing web traffic and exposure. Sierra additionally invests significant financial and internal resources to maximize Search Engine Optimization (SEO) with a view to generating considerable web traffic and resultant auction interest. To continue leading the marketplace in online presence, Sierra is currently reconstructing sierraauction.com, allowing stronger site navigability, faster load speeds, and additional web search enhancements. To further contribute to Search Engine Optimization (SEO), Sierra has maximized our listing on several directory websites, including:

Google Maps  
YellowPages.com  
Dexknows.com  
Azcentral.com  
Superpages.com  
Kudzu.com  
Thecityofphoenix.com  
Whicspot.com  
*And others*

Our further recognition of the strength of online marketing is evidenced in our email distribution campaigns. Sierra utilizes an extensive database of collected email addresses (the result of massive email address acquisition efforts) to notify interested buyers of seized and forfeited vehicles of interest. This is done utilizing tools like Constant Contact and from Sierra's own email generating system.

Sierra doesn't limit their usage of the internet there, they are also continually using online trade related websites and publications to further market City assets. As an example, Sierra places banner ads on the homepage, auction page, and classified listings on WasteMag.com to assist in capturing buyers of garbage trucks (Please see Tab #5 for examples). Fire Trucks, Street Sweepers, and other specialty and construction equipment are also marketed utilizing similar online and offline trade publications.

### **Live Simulcast Online Bidding**

Further recognizing the power of the internet, Sierra has partnered with Proxibid. Utilizing Proxibid's services, Sierra offers their customers live, simulcast online bidding. Proxibid is the world's #1 provider of live webcast auctions and enables buyers to bid on vehicles and

equipment from anywhere in the world in conjunction with our live auction. Buyer's can view the City's inventory from anywhere in the world, and bid real-time on auction assets as they are sold live during our monthly auction, from the comfort of their home or office. Proxibid is a potent marketing tool that increases the reach of our already potent marketing efforts, as their service draws from the pooled database of buyers from other auction companies from around the world.

### **Print/Specialty Advertising:**

Aside from our extensive online marketing efforts, Sierra continues to invest resources into newspaper and specialty advertising campaigns. Often included in these efforts are State and area wide newspaper advertisements (English and Spanish publications)- The Arizona Republic, Tucson Daily Star, La Voz, Nogales International, Tri Valley (Casa Grande), The West Valley View, The Fountain Hills Times, Sonoran News, East Valley Tribune, The Paradise Valley Independent, Phoenix New Times, and others. Additionally, Sierra utilizes specialty ads in collector publications and commodity specific publications, i.e. Hemming Motor News, Rock and Dirt, Equipment Trader, Trader Online, and others.

### **Hispanic (Multi-Cultural) Advertising:**

Sierra is in touch with market trends and we listen to our customers. Therefore, in recent years we have been highly successful in creating an atmosphere that makes both our English and Spanish speaking clients feel welcomed and comfortable, which directly results in increased attendance and sales revenue for our consignors. In particular, in order to capture the interest and respect of our valuable and important Spanish speaking clients, Sierra has increased or implemented the following:

- *Bilingual Auctioneers*- Sierra has reached long-term agreements with several auctioneers that are able to auctioneer in both English and Spanish. This makes us unique, but also makes us effective. Each vehicle and piece of equipment is sold by an auctioneer that can sell in both languages (alternating between the two during his "auction chant"). Even the pre-auction announcements are conducted in English and Spanish. This acknowledgment makes Sierra unique, and is a great value add to our customers and consignors, and results in higher selling prices.
- *Bilingual Ringmen*- Sierra has also enlisted ringmen (bid spotters) that are able to communicate with Spanish speaking bidders, assisting them in following the rapid cadence of the auctioneer. This too equates to greater understanding and higher prices.
- *Additional Administrative, Security, and other Staff*- Sierra has numerous other strategically placed bilingual staff members to assist our Spanish speaking clients, including preview and auction day cashiers, greeters, information booth

staff members, security personnel, vehicle preview staff, parking lot staff, and vehicle title clerks.

- *Printed Materials, Signage, Announcements and Website-* Auction information, terms and conditions, informational signage, preview and auction day announcements, and even our newly redesigned website are translated into both English and Spanish Languages. Sierra pays attention and addresses the needs of our diverse customers, separating Sierra from the competition.

### **Hard and Soft Copy Mailers:**

Sierra creates and mails out over 4,000 hard copy post card mailers to remind our existing customers of upcoming auction sales. In addition, Sierra distributes email reminders of upcoming auctions and events to another 10,000 active auction buyers. Sierra's print collaterals are considered by most auction attendees to be the best in Arizona. All of Sierra's print collaterals are carefully designed and timed to maximize their effectiveness. Sierra's print collaterals are created and printed in-house by a full time professional graphic designer, allowing for maximum flexibility and the addition of the last minute item. Sierra understands that no one ever purchased anything from an advertisement. Our advertising and marketing team works hard to drive potential buyers to our website and auction location where they can bid on seized and forfeited vehicles.

### **Telemarketing:**

A database of buyers that have demonstrated interest in specific vehicles or categories of vehicles are often notified via telephone. This personal and effective advertising method is greatly responsible for numerous sales transactions.

### **Radio Advertising:**

Numerous times each year (often during holiday seasons), Sierra also utilizes radio advertisements to draw potential buyers to the auction. English and Spanish speaking stations are used to target buyers on a variety of stations, including KSLX, KUPD, KTAR, KOOL, KQMR, KOMR, and others. Sierra has determined that radio and television are not effective methods to generate web and or live auction attendance and we utilize these methods on a when necessary basis. Sierra concentrates it advertising dollars where they generate bidders for our consignors. Sierra auction attendance is by far the largest in the State of Arizona, further verifying our expertise at effectively marketing our auction.

### **Location:**

Often unnoticed as an advertising benefit, our facility is centrally located to maximize exposure. Our Phoenix facility is located at the intersection of 3 major streets, and within a mile from I-17,

three (3) miles of I-10, and only 15 minutes from Phoenix Sky Harbor Airport- Sierra is perfectly positioned to be convenient for buyers from all over the valley, Tucson, the balance of Arizona and beyond. Signage on Grand Avenue, a major thoroughfare, leading up to each auction, gives us extensive exposure for auction sales. Car counts at our Phoenix facility exceed 119,000 per day (Major Traffic Flow, 2005 Average Weekday Traffic, Street Transportation, City of Phoenix).

The effectiveness of Sierra's advertising and marketing methods are readily evident. Sierra draws the largest auction crowd of any general public auction company in the State of Arizona. Auction attendance weighs heavily upon the success of any auction company, as the more qualified buyers in attendance, the greater the competition, the greater the net results to the City of Mesa. And while we recognize the value of technology (as is evidenced in our online capabilities), we also recognize that the greatest results come from those who can "kick the tires"- those that can touch, hear, and see the true condition of the items they wish to purchase, and get to participate in the excitement of a live auction. Sierras' large in person attendance equates to effectively generating maximum revenue for the City of Mesa and Mesa Police Department. A considerable number of *new* bidders (Please see attached Tab #4 to view these figures) register for each auction, many of which are from out of the State, and out of the Country. This steady influx of buyers increases the level of competition significantly, and testifies to the effectiveness of our methods.

### **Customer Amenities Available (parking, seating, restrooms, vending, etc :)**

Our goal at Sierra is to provide our customers with an experience that is safe, friendly, comfortable, and convenient.

Unlike our competitors, Sierra has *ample, legal, and secured parking* for over 680 vehicles (500+ of which are paved parking areas). Sierra staff's each of the parking areas with security personnel to ensure that customers are able to park in an organized manner with confidence that their vehicles will be safe and secure while attending our auctions and auction preview events. In addition to those designated parking areas, there are several legal, neighborhood parking areas as well.

In addition to ample parking, Sierra also has many other customer amenities including covered sitting areas, and numerous outdoor covered canopies. Multiple restrooms (traditional indoor facilities, porta-potties, and handicapped) are available for both men and women.

Sierra also provides our customers with food and beverage options. Currently, Sierra utilizes the services of a licensed full service mobile restaurant to cater to our customer's food and beverage needs. Covered seating is available for customer dining while attending the event. Additionally, Sierra provides beverages at our information booth, with a beverage cart that circles our facility, and with multiple vending machines for customer convenience.

**Public Address Capabilities:**

As part of the customer auction experience Sierra places great importance on the quality of the sound and the customer's ability to hear adequately, at all times, without exception. With that in mind, Sierra equips their auctioneers with modern, powerful, and well-maintained public address equipment. Equipment is regularly serviced to make certain that no interruptions or delays take place during the auction event. Additionally, equipment utilizing battery power is charged at a designated time as scheduled in advance of the auction event. Microphone or headset equipment that require battery power are issued new batteries prior to each auction, and spare batteries are provided to each auctioneer in case failure should occur. All auctioneers have their own microphones or wireless headsets (for hygienic reasons) and Sierra keeps spare equipment ready and sanitized in the unfortunate event that equipment failure should occur. Furthermore, Sierra has 10 public address systems, with 2 new systems purchased in May of 2010, to further guarantee that the event goes on without a hitch. Equipment is serviced four times annually for the same reason.

**Describe your bidder registration and payment system. Is access to third party financing available?  
Do you carry your own contracts:**

Sierra offers the most efficient and effective, state of the art, check-in and check-out system in the industry. We currently register between 600 and 750 bidders at our Phoenix auction. Even at the busiest times, registration only takes approximately 7 minutes. We view registration and check out as an important component of our business and a critical part of shaping the customer experience.

*Registration-* When entering the registration and payment area, Sierra pre-positions bilingual staff members to actively answer questions while customers prepare to register or issue payment, increasing the efficiency of the process. Each cashier is trained to accurately obtain registrant information, and is given the tools to do so efficiently. Each registration and checkout window (currently nine (9) windows) is equipped with an up to date personal computer system which allows Sierra to scan drivers licenses (barcode or magnetic strip), State or Federal issued ID's, and other forms of official identification. Complete name, address, and drivers license information is then parsed into our servers automatically, without the need to enter data manually; this reduces human error and increases speed of registration. The cashier verifies the preferred language of the buyer (necessary to determine whether invoices are later printed in English, Spanish, or another language) and then collects customer cash or debit card deposits and enters deposit totals into the computer system for more expedient checkout. Cashiers verify that all cash received is not counterfeit using black light and computerized commercial fraud detection equipment. Registrants sign an agreement to abide by the Terms and Conditions of the auction, and then receive a computer generated bidder number, which allows them to bid on auction items.

*Payment-* Once a successful bidder approaches the payment area they are greeted by a bilingual Sierra staff member that can answer questions and then direct them to one of the (9) nine available payment windows. The cashier greets each customer, and asks them what method of payment they will utilize (Cash, Wire Transfer, Visa, MasterCard, American Express, Discover, Debit Card, or Cashier's Check/Certified Funds), then collects the money accordingly, verifying that funds collected are not counterfeit. The payment is counted by the cashier, who distributes it to a Lead Cashier that double counts the payment for accuracy, and then signs and stamps the paid invoice and money is safely transferred to a holding safe. Shortly thereafter, a Senior Manager will collect it, verify it, strap it, and transfer it to a drop safe to be picked up by Brinks armored transport services.

If a customer made a vehicle(s) purchase, rather than have title transfers hold up the payment process for subsequent buyers, customers are directed to the Title Office, where experienced Title Processing Clerks are able to quickly, and accurately convey vehicle titles and temporary MVD permits to paid buyers. Keys are distributed to satisfied buyers, and the process is complete.

Security – Two City of Phoenix police officers are on premise at every auction; one remains in the cashier's office, the other patrols the property during the auction

*Third Party Financing / Carry Contracts-* Sierra does not offer third party financing, nor do they carry contracts. Sierra allows customers who wish to solidify financing options through the lending institution of their choice sufficient time to do so in conjunction with the auction terms and conditions.

**Describe towing capabilities, plus the storage facility, lighting, fencing and security available for City vehicles.**

Sierra has contracted with WC Fields/Excaliber Towing to transport vehicles and equipment to Sierra's auction facility. WC Fields/Excaliber Towing has a satellite office and their tow trucks/equipment housed at Sierra's facility in order to quickly respond to the needs of Sierra's clients. This arrangement enables Sierra to be competitively priced, and more responsive than our competitors in the marketplace. On rare occasion, equipment requiring specialized transport is needed, and Sierra has resources to transport every type of equipment to their facility.

Sierra also has the best suited facility and security measures in place to protect the City's vehicle (and non-vehicle) inventory. Please see attached Tab "Description of Services", in the section identified as "A statement describing the type of security utilized to safely store vehicles and equipment awaiting auction..." for complete information in this regard.

**Describe how you handle an unsuccessful sale (check bounces, customer refuses to take delivery, etc)**

Sierra has worked intelligently to minimize the number of unsuccessful sales resulting from the auction event. For that reason, potential bidders (specifically those registering to bid on vehicles and equipment) must register by placing a \$500 cash or debit card deposit on file with Sierra; this discourages bidders from failing to uphold their contractual obligation to complete the purchase. In conjunction with the collection of the deposit, Sierra has successfully instituted other policies to limit the number of instances in which sales might otherwise be unsuccessful. These include:

*Check Bounces-* Sierra does not accept personal or corporate checks as a form of payment. This protects the interests of Sierra and the City of Mesa, as instances of fraudulent checks is eliminated, as are check bounces. Sierra believes that checks, even from normally reliable and long-lasting customers, offer risk of collapse. Sierra gives all successful bidders a sufficient measure of time to allow them to convert their check into certified funds or cash, and encourage frequent customers to contact their bank to increase the spending limit on debit card purchases to make the payment process easy and more unflinching.

*Customer refuses to or is unable to complete transaction-* On a rare occasion a customer may experience "buyer's remorse", or may legitimately experience difficulty in paying for a purchase. This does not reduce or eliminate their responsibility to fulfill their contractual obligation. After a minimum of 7 unsuccessful attempts to collect payment (via telephone, email, or other communication) by Sierra personnel, the customer's deposit may be forfeited to Sierra, and the buyer will be flagged in our registration system thereby eliminating opportunities for the bidder to register in any future Sierra auctions. Depending on the monetary size of the transaction, Sierra, at our discretion, may opt to pursue legal remedies to enforce payment.

Sierra makes every effort to secure payment from each of our customers. Multiple contacts are made via whatever means we have available in attempt to collect all monies due. However, time and unforeseen occurrence befall us all, and therefore, with discretion, Sierra will, in some instances, extend to select customers the opportunity to pay after the contractual deadline. Those instances are most often based on whether it is likely that the future sale of the vehicle or equipment will result in a reduced selling price if sold in a future auction. In any case, instances are also flagged in our auction registration and payment system, so that these rare occasions are not repeated.

Based on auction industry data, Sierra believes it has one of the lowest occurrence rates of buyer nonperformance in the auction industry.

**Describe your bookkeeping and billing system:**

*Before the auction-* Prior to every auction, all systems are audited to ensure that each transaction will be processed accurately and that all invoices, quantities, and tax rates are correctly calculated, thus eliminating errors. Sierra uses the most well known and effective inventory and invoice processing software application available to the auction industry, Auction Flex. Auction Flex integrates with Sierra's bookkeeping system, QuickBooks (Premier Edition), in order to process consignor settlements and to issue consignor payments. This allows our management team the accurate and timely reporting tools necessary to manage the business.

*During the auction-* Auction day sales and invoice management is conducted using Auction Flex. Auction Flex automatically calculates purchases, 10% buyer's premiums and applicable sales taxes and adds them to customer invoices. Auction sales data from multiple selling areas is processed using wireless technology and is immediately transmitted into Sierra's computer systems, eliminating wait time for manual data entry and allowing transaction auditing prior to customer checkout. This allows for a double check of all transactions prior to invoice processing, thereby allowing the cashiers to invoice and collect funds in the most accurate and timely system available to exceed buyer expectations.

**VENDOR INFORMATION**

Company Legal/Corporate Name: Sierra Auction Management, Inc.

Doing Business As (if different than above): \_\_\_\_\_

Address: 3570 Grand Avenue

City: Phoenix State: Arizona Zip: 85019 - 3413

Phone: 602.242.7121 Fax: 602.246.1903

E-Mail Address: doug.godfrey@sierraauction.com Website: www.SierraAuction.com

Taxpayer Identification Number: [REDACTED] DUNS #: [REDACTED]

Remit to Address (if different than above):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Contact for Questions about this proposal:**

Name: Brett Higgins Fax: 602.246.1903

Phone: 602.242.7121 E-Mail Address: brett.higgins@sierraauction.com

Day-to-Day Project Contact (if awarded):

Name: Brett Higgins Fax: 602.246.1903

Phone: 602.242.7121 E-Mail Address: brett.higgins@sierraauction.com

Sales/Use Tax Information (check one):

Bidder is located outside Arizona and does NOT collect Arizona State Sales/Use Tax (The City will pay use tax directly to the AZ Dept of Revenue)

Bidder is located outside Arizona is authorized to collect Arizona Sales/Use Taxes (The Bidder should invoice the applicable sales tax and remit to the appropriate taxing authorities)

State Sales Tax Number: \_\_\_\_\_  
City Sales Tax Number: \_\_\_\_\_ City of: \_\_\_\_\_, AZ  
Sales Tax Rate: \_\_\_\_\_

Bidder is located in Arizona (The Bidder should invoice the applicable sales tax and remit to the appropriate taxing authorities)

State Sales Tax Number: [REDACTED]  
City Sales Tax Number: [REDACTED] City of: Phoenix, AZ  
Sales Tax Rate: 9.3

Certified Small Business Certifying Agency: \_\_\_\_\_

Certified Minority, Woman or Disadvantaged Business Enterprise Certifying Agency: \_\_\_\_\_

**EXHIBIT B**  
**Auctioneering Services Agreement**  
**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Commission for auction services and charges for transportation shall be paid according to the attached schedule, submitted by Contractor in response to Mesa RFP #2010158, except that vehicle transportation charges will be \$40/each for a standard vehicle and \$125/ each for heavy equipment (i.e., garbage truck).

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$45,000.

**DETAILED PROJECT COMPENSATION**

See attached schedule.

**PRICING AND COMPENSATION**

Pursuant to all the contract specifications enumerated and described in this solicitation, we agree to furnish **Auction Services** to the City of Mesa at the price(s) stated below.

**COMMISSIONS FOR FLEET SERVICES**

Motor Vehicles (standard vehicles, up to and including 1 ton size) Percentage of Gross Sales	<u>4.4</u> %
Motor Vehicles (heavy equipment, over one ton size) Percentage of Gross Sales	<u>4.4</u> %
Miscellaneous Property Percentage of Gross Sales	<u>6.9</u> %
Other	
<u>N/A</u> Check here if there are other or different pricing schedules and attach explanation as a separate page.	

**TRANSPORTATION CHARGES**

	<u>From 6<sup>th</sup> Street Service Center 310 E. 6<sup>th</sup> St</u>	<u>East Mesa Service Center 6935 E. Decatur St.</u>
Standard Towing: running & non-running units		
Standard vehicles, up to and including one ton	<u>\$50.00</u> per unit	<u>\$75.00</u> per unit
Heavy equipment (over one ton)	<u>\$150.00</u> per unit	<u>\$150.00</u> per unit
Lowbed Trailer Service:		
Heavy trucks, sweepers, refuse trucks, etc.	<u>\$150.00</u> per unit	<u>\$150.00</u> per unit
The use of a commercial transport carrier service is desired, when practical, to relocate the vehicles from the designated City facility to the Contractor's facility. The intent is to maximize the ability of transporting numerous vehicles at one time and reducing overall costs.		
Surplus miscellaneous property:		
Loading and hauling miscellaneous property	<u>\$75.00*</u> per hour * Truck & Driver additional man - \$40/hr	<u>\$75.00*</u> per hour * Truck & Driver additional man - \$40/hr

Other Transportation (Transport Carrier)  
X\* Check here if there are other or different transportation service & charges & attach explanation on a separate page.

**\*All other specialty transportation as approved by City of Mesa, per quote (i.e. Mobile Home, etc)**

Vendor Name Sierra Auction Management, Inc.

Date: June 1, 2010

**PRICING AND COMPENSATION**

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**OTHER SERVICES**

Decal removal (Exhibit 1)

Includes all City logos, stickers and I.D. numbers on standard City vehicles.  
(Describe how the removal will be completed, i.e. paint, scrape off, etc.)

\$25.00 per unit

Decal removal (Exhibit 2 & 3)

Includes all City logos, stickers and I.D. numbers on public safety vehicles,  
i.e. police. (Describe how the removal method utilized for the price quoted, i.e.  
paint, scrape off, etc.)

\$125.00 per unit

**OPTIONAL SERVICES**

Detail Service (motor vehicles)

Includes washing, cleaning seats, floors, dash, etc.  
(Describe in detail the services provided)\*

\$0 per unit

**\*Please see Tab "Desc of Services" for a detailed description**

Detail Service (heavy equipment, such as refuse trucks, etc.)

Includes washing, cleaning seats, floors, dash, etc.  
(Describe in detail the services provided)\*

\$0 per unit

**\*Please see Tab "Desc of Services" for a detailed description**

Miscellaneous fees that may be incurred by Fleet Services, upon advance authorization, include:

Replace Battery:

\$ 60.00

Remove Push Bar:

\$ 25.00

Remove Prisoner Screen:

\$ 25.00

Keys:

\$ Actual\*

\*typically \$65 and up

Other

**X\*** Check here if there are other or different services and charges,  
explain in detail the services and charges for each service.

\*Repairs as approved by the City of Mesa (materials + labor at actual cost)

**COMMISSIONS FOR POLICE DEPARTMENT**

For Vehicles and Merchandise

**Vehicles = 4.4% / Merchandise = 6.9%**

Miscellaneous fees that may be incurred by the Mesa Police Department, upon advance authorization, include:

Towing Rate:

\$ Actual

Replace Battery:

\$ 60.00

Tire Repair:

\$ 15.00 minimum

Duplicate Key:

\$ Actual\*

\*typically \$65 and up

The City will add any applicable sales tax or use tax. Sales/Use taxes should not be included in the offer prices.

FOB: Destination

Freight Costs: Unit prices should include all Shipping and Transportation Costs

No fuel surcharges will be accepted.

Vendor Name Sierra Auction Management, Inc.

Date: June 1, 2010

**PRICING AND COMPENSATION**

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Payment terms (not less than net 30 days): Contractor to issue payment within 14 calendar days per contract requirements

Completed W-9 Form Attached? X\* Yes \_\_\_\_\_ No (A "no" answer will not disqualify your bid.)

**\*Please see Tab #1 for a copy of completed W-9**

Does Offeror agree to honor the prices, terms and conditions to other agencies as specified in section S.25?

X\* Yes \_\_\_\_\_ No (A "no" answer will not disqualify your offer.) (see below)

Bidder complies with S.4 CONTRACTOR BUSINESS REQUIREMENTS? (If Applicable)

X Yes \_\_\_\_\_ No

**\*Offeror agrees to honor the prices, terms and conditions to other agencies as specified in section S.25 of this response, however, towing and transportation rates may vary for other entities utilizing the cooperative purchasing agreement (SAVE) due to further distances or logistical nuances and therefore, may be negotiated individually with those entities as this is a variable expense to the Contractor.**

Vendor Name Sierra Auction Management, Inc.

Date: June 1, 2010

**EXHIBIT C**  
**Auctioneering Services Agreement**  
**DISPUTE RESOLUTION**

**1. Disputes.**

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
- a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
  - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
  - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

**2. Arbitration.**

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
- a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
  - b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute**. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. **Exceptions**.

4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.

4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.