



BOARD OF SUPERVISORS AGENDA ITEM REPORT

CONTRACTS / AWARDS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: June 4, 2019

** = Mandatory, information must be provided*

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**

Empire Southwest LLC D.B.A. Empire Machinery (Headquarters: Mesa, AZ)

***Project Title/Description:**

Heavy Equipment, Parts, Accessories, Supplies and Related Services

***Purpose:**

Award: Master Agreement No. MA-PO-19-133. This Master Agreement is for an initial term of one (1) year in the annual award amount of \$750,000.00 (including sales tax) and includes four (4) one-year renewal options.

Administering Department: Fleet Services.

***Procurement Method:**

Pursuant to Pima County Procurement Code 11.24.010, Cooperative procurement authorized, the Procurement Director authorized Requisition No. 19-157, the Procurement Director approved the use of the City of Tucson Contract No. 161534, which was awarded through competitive procedures reasonably similar to those set forth by Pima County Procurement Code.

PRCUID No. 328416

Attachment: Cooperative Procurement Agreement

***Program Goals/Predicted Outcomes:**

To purchase the Caterpillar 140M Series Motor Grader to continue equipment standardization and consistency within the County. Equipment operators knowledge of the machine and have been trained on the operations and safety. Fleet technicians and Parts technicians can maintain the equipment and inventory the parts necessary for the proper maintenance.

***Public Benefit:**

This allows equipment sharing among the various County departments to continue various County road maintenance.

***Metrics Available to Measure Performance:**

Measure the amount of work hours performed using the Motor Graders road maintenance. Additional metric will monitor the down time of Motor Graders not available due to repairs or service.

***Retroactive:**

No

Contract / Award InformationDocument Type: MA Department Code: PO Contract Number (i.e., 15-123): 19-133Effective Date: 06/04/2019 Termination Date: 06/03/2020 Prior Contract Number (Synergen/CMS): _____☒ Expense Amount: \$* ~~720,000.00~~ 750,000.00 ms ☐ Revenue Amount: \$ _____***Funding Source(s) required:** Fleet Services OperationsFunding from General Fund? ☐ Yes ☒ No If Yes \$ _____ % _____Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No***Is the Contract to a vendor or subrecipient?** _____Were insurance or indemnity clauses modified? ☒ Yes ☐ No

If Yes, attach Risk's approval

Vendor is using a Social Security Number? ☐ Yes ☒ No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____Is there revenue included? ☐ Yes ☐ No If Yes \$ _____***Funding Source(s) required:** _____Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____***All Funding Source(s) required:** _____***Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ _____ % _____***Match funding from other sources?** ☐ Yes ☐ No If Yes \$ _____ % _____***Funding Source:** _____***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** _____Contact: Maria Julia Canizales ipFOR
Division Manager: Dennis WaldenDepartment: Procurement May 2019 4/26/19 Telephone: 520-724-8167Department Director Signature/Date: [Signature] 5-2-2019Deputy County Administrator Signature/Date: [Signature] 5-8-19County Administrator Signature/Date: [Signature] 5/8/19

(Required for Board Agenda/Addendum Items)

Pima County Procurement Department
Administering Department: Fleet Services

Project: Heavy Equipment, Parts, Accessories, Supplies and Related Services

Contractor: Empire Southwest, LLC
D.B.A. Empire Machinery
P.O. Box 29879
Phoenix, AZ 85038-9879

Amount: \$750,000 annually

Funding: Fleet Services Operation

Pima County Contract No.: MA-PO-19-133

COOPERATIVE PROCUREMENT AGREEMENT

1. Parties, Background and Purpose.

- 1.1. Parties. This Contract is between Pima County, a political subdivision of the State of Arizona ("County"), and Empire Southwest, LLC, D.B.A. Empire Machinery ("Contractor").
- 1.2. Authority. Pima County is authorized by Pima County Code § 11.24.010 and A.R.S. § 41-2632 to enter into cooperative purchasing agreements to acquire materials and services under the contracts of other public entities.
- 1.3. Contract.
 - 1.3.1. City of Tucson entered into a contract (Contract No. 161534) for specified goods and services with Caterpillar, Inc., (Caterpillar) which is currently in effect (the "City of Tucson Contract"). The City of Tucson Contract is incorporated into this Contract by reference.
 - 1.3.2. Section 1.4 of Attachment A of Exhibit A of the City of Tucson Contract provides that another governmental entity with which City of Tucson has a cooperative purchasing agreement may, with Caterpillar's approval, purchase products and services at the same prices and under the same terms as in the City of Tucson Contract.
 - 1.3.3. Contractor is the duly authorized Arizona dealer and service provider for Caterpillar equipment, parts, accessories, and supplies.
- 1.4. Purpose. The Pima County Fleet Services Department (Fleet) requires the purchase of motor graders to provide County departments with equipment to continue services.

2. Term.

- 2.1. Original Term. This Contract is effective for a one-year period commencing on June 4, 2019 (the "Initial Term"). "Term," when used in this Contract, means the Initial Term plus any exercised Extension Options.
- 2.2. Extension Options. County may renew this Contract for up to four (4) additional periods of up to 1 year each (each an "Extension Option"), contingent upon extension of the City of Tucson Contract.

3. Scope of Services.

- 3.1. Contractor will provide new Caterpillar motor graders under the terms and conditions of the City of Tucson Contract as modified by this Contract and at the prices set forth in Exhibit D: Pricing Page (1 page). The motor graders listed on Exhibit D are Caterpillar's current motor grader models. If, at any time during the term of this Contract, Caterpillar makes material changes to the models listed, or adds new motor grader models, Exhibit D may be revised to reflect the changes. The terms and conditions set forth in this Contract control over any inconsistent provisions in the City of Tucson Contract.
 - 3.1.1. The purchase price specified in Exhibit D may be further reduced by a Trade-In Allowance for the trade-in of existing County equipment, which will be under the terms and conditions set forth in Exhibit C.
 - 3.1.2. At the time of purchase Contractor will provide County a guaranteed re-purchase price (trade in allowance or a minimum bid at public auction), and the time by which the repurchase must occur, for graders purchased under this contract, and the blanks included on Exhibit A shall be updated to reflect such information. The repurchase will occur under, and be subject to, the terms and conditions set forth in Exhibit A: Guaranteed Costs (1 page), Section 2, and Exhibit A-1: Guaranteed Repurchase and Return Conditions (2 pages).
- 3.2. Contractor also will be fully responsible for costs (including parts and labor) in excess of the guaranteed maximum cost of repair amount, for the guaranteed maximum cost of repair time period, both as agreed to by the parties at the time of the purchase, after which the blanks on Exhibit A shall be updated to reflect such information. The guaranteed maximum cost of repairs will occur under, and be subject to, the terms and conditions set forth in Exhibit A: Section 1, and Exhibit B: Guaranteed Maximum Cost of Repairs (2 pages).
 - 3.2.1. Contractor must maintain a local factory authorized maintenance facility within the Tucson Metropolitan area. Service hours shall be from 8:00 A.M. to 5:00 P.M., Monday through Friday or have specific agreements in force with a third party to provide local maintenance. If applicable, a document showing evidence of the third party agreement to provide necessary maintenance support shall be provided upon request.
- 3.3. The following documents are required upon delivery of new Caterpillar motor graders:
 - 3.3.1. Contractor must submit Manufacturer Statement of Origin (M.S.O.) and serial number shall not be altered in any way, which must include the odometer

statement, if applicable. Unless otherwise ordered in writing, the M.S.O. shall show the owner/purchaser of the equipment as:

**Pima County Board of Supervisors
1291 S Mission Road
Tucson, AZ 85713**

- 3.3.2. Contractor must submit two (2) CDs or Thumb drives, or website to enable County to access the following:
- a. Maintenance-Overhaul (shop) manuals
 - b. Operator's manuals
 - c. Service Manuals including Wiring Diagrams
 - d. Manuals for auxiliary equipment
 - e. Four (4) sets of keys
- 3.3.3. Contractor will provide authorized trainers to train County staff on the operation and service of the new Caterpillar motor graders purchased under this agreement, at no additional cost to the County. Fleet will contact Contractor to schedule training within thirty (30) days of receipt of equipment.
- 3.3.4. Contractor must deliver an unaltered invoice specifying the purchase order number and the serial number for the new Caterpillar motor graders to Pima County Fleet Services Department at 1291 S. Mission Road, Tucson, AZ 85713.
4. **Not-to-Exceed Amount.** Purchases under this Contract by the County may not exceed \$750,000.00 annually (the "NTE Amount").
5. **Indemnification Clause.** To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.
6. **Insurance Requirements.** Contractor will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit Contractor's indemnity obligations under this Contract. The County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

6.1. Insurance Coverages and Limits: Contractor will procure and maintain, until all of its obligations have been discharged, coverage with liability limits not less than those stated below. Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A- VII, unless otherwise approved by the County.

6.1.1. Commercial General Liability (CGL) – Occurrence Form with limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include coverage for liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations.

6.1.2. Business Automobile Liability – Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Contract with minimum limits not less than \$1,000,000 Each Accident.

6.1.3. Workers' Compensation and Employers' Liability – Statutory coverage for Workers' Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease.

6.2. Additional Coverage Requirements:

6.2.1. Claims Made Coverage: If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

6.2.2. Additional Insured Endorsement: The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

6.2.3. Subrogation Endorsement: The General Liability, Business Automobile Liability, and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

6.2.4. Primary Insurance Endorsement: The Required Insurance policies must stipulate that they are primary and that any insurance carried by Pima County, its agents, officials, employees or Pima County is excess and not contributory insurance. The Required Insurance policies may not obligate the County to pay any portion of a Contractor's deductible or Self Insurance Retention (SIR).

6.3. Notice of Cancellation: Contractor must notify Pima County, within two (2) business days of Contractor's receipt of notice from an insurer, if any Required Insurance policy is suspended, voided, or cancelled for any reason. Notice must include the Pima County project or contract number and project description.

6.4 Verification of Coverage:

- 6.4.1 Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.
- 6.4.2 All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 6.4.3 All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate.
- 6.4.4 Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

6.5 Approval and Modifications: The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Contract. This can be done administratively, with written notice from the Risk Manager, and does not require a formal Contract amendment. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

- 7. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
- 8. **Compliance with Laws.** Contractor will comply with all applicable federal, state, and local laws, rules, regulations, standards and Executive Orders. Contractor warrants that it is appropriately licensed to provide the services under this Contract and that any subcontractors will be appropriately licensed. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.
- 9. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
- 10. **Non-Appropriation of Funds.** Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and

available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.

11. **Public Information.** Pursuant to A.R.S. § 39-121 et seq. all documents submitted to County by Contractor, including but not limited to pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

12. **Legal Arizona Workers Act Compliance.**

- 12.1. Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.

- 12.2. Books & Records. County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

- 12.3. Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

- 12.4. Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 24 by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach

of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract." CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR will further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

13. **Written Orders.** County will order products or services under this Contract by issuing a Delivery Order (DO) document. Order documents will be furnished to Contractor via e-mail or telephone. If an order is given verbally, the County Department that issued the order will transmit a confirming order document to Contractor within five workdays of the date the verbal order is given.

Contractor must not supply materials or services pursuant to the contract that are not documented or authorized by a Delivery Order (DO) at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County Delivery Order (DO).

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this Contract. In particular, Contractor will not provide goods or services other than those described in this Contract, in excess of the NTE Amount, or after the Term of the Contract has ended, without a Contract amendment properly executed and issued by County, as provided below. Any items provided in excess of that stated in this Contract are at Contractor's own risk.

14. **Amendments.** The County may extend, contingent upon extension of the City of Tucson Contract, or revise this agreement by notifying Contractor in writing of the extension or change, which notice will be in the form of an amendment to this Contract. If Contractor does not object in writing to the proposed changes within ten (10) calendar days after receipt of the notice, Contractor will be deemed to have accepted the changes, and the revision will be binding on the parties, effective as of the date both parties agree in writing to the changes. If Contractor objects to one or more of the changes, then the proposed changes will be deemed to be ineffective.

15. **Invoice Submittal.** Invoices are to be sent to:

Pima County Finance & Risk Management- Accounts Payable
P.O. Box 791
Tucson AZ, 85701

16. **Notices.** Notices regarding this Contract should be addressed to:

Maria Julia Canizales, Procurement Officer
Pima County 130 W. Congress 3rd Floor, Tucson, AZ 85701
Telephone No.: (520) 724-8167, Email: maria.canizales@pima.gov

(The remainder of page is left blank intentionally)

IN WITNESS WHEREOF, the parties have approved this Cooperative Procurement Agreement and agree to be bound by the terms and conditions of the Contract on the dates written below.

PIMA COUNTY:

Chairman, Board of Supervisors

Date: _____

ATTEST:

Clerk of the Board

Date: _____

APPROVED AS TO FORM:



Deputy County Attorney
CHRISTOPHER STRAUB

4-26-2019
Date

**Empire Southwest, LLC
D.B.A. Empire Machinery**



Authorized Officer Signature

Jim Smith, Executive Vice President

Printed Name and Title

Date: 4/30/2019

Exhibit A: Guaranteed Costs (1 Page)

1. Guaranteed Maximum Cost of Repairs: (Refer to Exhibit B)

Contractor will be fully responsible for the cost of repairs (including parts and labor) in excess of the Guaranteed Maximum Cost of Repairs Amount listed below. The Guaranteed Maximum Cost of Repairs will apply for a period of ____ () years from the date of delivery, or for a period of ____ hours of operation as recorded by the Caterpillar Motor Grader hour meter, whichever comes first. Subject to the inclusions, exclusions, and other terms and conditions set forth on Exhibit B, if the Guaranteed Maximum Cost of Repairs amount is exceeded during the foregoing time period, the Contractor shall reimburse the County for the excess amount. In determining the Guaranteed Maximum Cost of Repairs, the total cost of warranty repairs (parts & labor) will not be included. Contractor will meet with Fleet Services on an annual basis, if needed, to go over any overages and reimbursement to County. In the event of any conflict between this Exhibit A and the terms of Exhibit B, Exhibit B shall govern and control.

Amount: \$ _____ per Motor Grader for ____ years/ ____ hrs.

2. Guaranteed Minimum Repurchase Price

1. Contractor guarantees a "Guaranteed Minimum Repurchase Price" (trade-in allowance or a minimum bid at public auction) in the amount of \$ _____ up to the first ____ hours of operation (as recorded by the hour recorder) or ____ () years from the date of delivery of the equipment, whichever first occurs (the "Buy Back Period").
2. In determining the Guaranteed Minimum Repurchase Price, and in the enforcement of this provision of this Contract, the following rules shall apply:
 - a. The Guaranteed Minimum Repurchase Price on the equipment shall be allowed as a trade-in allowance by Contractor in the event the County decides to purchase other new equipment from Contractor.
 - b. The minimum bid shall be made by Contractor at public auction in the event the County elects to auction the equipment.
 - c. In the event equipment subject to this repurchase obligation, while in possession of the County, is, by any casualty cause, either totally destroyed or partially damaged to the extent that the damage is beyond repair and is considered a total loss because of the cost of restitution, then Contractor is released from his obligation under the Guaranteed Repurchase provision of this Contract.
 - d. See Exhibit A-1: Guaranteed Repurchase and Return Conditions for additional terms and conditions. In the event of any conflict between Exhibit A and Exhibit A-1, Exhibit A-1 shall govern and control.

3. Total Machine Warranty:

Provide Caterpillar's Premier Warranty coverage for ____ () years or ____ hours, whichever comes first. In addition, Contractor shall not charge County for field repair travel time and mileage for repairs covered by Caterpillar's Standard Warranty during the twelve (12) month standard warranty period at no additional cost to County.

4. Loaner Replacement:

If the Caterpillar motor grader cannot be repaired by Empire within two (2) business days, for repairs covered by Caterpillar's Standard Warranty while under the standard warranty period, a compatible Caterpillar motor grader will be loaned to the County at no-charge, including pick-up and delivery, until the repairs can be completed and the motor grader is back up and fully functional.

EXHIBIT A-1 (2 pages)

Guaranteed Repurchase and Return Conditions

County agrees that the motor grader must meet the following guidelines upon its return to Contractor:

- Be returned in the same configuration, including all attachments, as when initially delivered.
- Be cleaned, and all switches, monitoring systems, gauges, control levers, pedals, radio (if applicable), mirrors, seats, insulation, and other components must be complete and in good working order.
- Be free from all oil, hydraulic, fuel, and coolant leaks.
- Be in good operating condition without mechanical defects.
- Have had all weld repairs completed by a certified welder using Caterpillar repair guidelines/specifications.
- Not have been subject to accidents, fire, theft, vandalism, or acts of God.
- Have been operated and maintained in accordance with Caterpillar Lubrication, Preventative Maintenance and Owner and Operator Manuals.
- Have been enrolled in a Caterpillar dealer Scheduled Oil Sampling (SOS) or comparable program for the entire Buy Back Period, and all fuels, lubricants, additives, and radiator water must be clean and in compliance with Caterpillar recommended standards.
- Have been operated only in the applications for which it was designed.
- All window glass must be clear and free from cracks and major pits; all window frames, doors, and weather stripping must be complete; and all service compartment covers and doors, fenders, and other flat metal or plastic must be in good working order and free from dents and cracks. No bent sheet metal.
- All standard Caterpillar and non-Caterpillar safety items must be complete and in good working order, including, but not limited to, the roll over protection (ROPS) and falling object protection (FOPS) systems, seat belts, steps, safety rails, grab irons, cat walks, fire suppression systems, and warning alarms.
- All electrical components, including, but not limited to, batteries, alternators, wiring harness, drive belts, lighting and air conditioning systems must be complete and in good working order.
- All repairs made to main structures, including, but not limited to, main frames, booms, sticks, and buckets must be accomplished in accordance with the factory recommended materials and repair procedures.
- All ground engaging tools, including, but not limited to, buckets, dozer blades, base cutting edges, rippers, scarifiers, drums, feet, tines, screeds, elevator flights, forks, and top clamps must have good structural integrity and have fifty percent (50%) minimum remaining life.
- All track and rubber belted equipment must have a minimum of fifty percent (50%) remaining life on each and every component, including, but not limited to, track shoes, links, pins, bushings, idlers, bogies, sprockets, carrier rollers, and track rollers. Belts cannot have any cuts that extend into the cords and must not be missing guide blocks or grouser bars (lugs). Charges will be assessed for each component not meeting this requirement.

➤ **EXHIBIT A-1** (continued)

➤ **Guaranteed Repurchase and Return Conditions**

- All rubber tire equipment must have a minimum of fifty percent (50%) remaining life of the original tread life of each tire. Recapped tires are not acceptable substitutes. All tires must be a matched set with the same tread type and pattern and have no significant cuts or chunking of the tread or side walls.
- Contractor retains the right to review any and all repair and maintenance records during the Buy Back Period. A full equipment inspection may be conducted upon return of the equipment. Client agrees it will be responsible for any damage other than normal wear.
- Client may not assign this repurchase right without Contractor's prior written consent.
- Client will be invoiced for the parts and labor required to bring the equipment into compliance with the above guidelines based on Contractor's prevailing parts and labor rates.

Exhibit B: Guaranteed Maximum Cost of Repairs (2 pages)

A. Guaranteed total maximum cost of repairs to County

1. In determining whether the Guaranteed Maximum Cost of Repairs Amount has been reached, the cost of all warranty repairs made shall not be included.
2. Prior to reaching the Guaranteed Maximum Cost of Repairs amount, the County shall be responsible for making repairs and the following rules shall apply:
 - a. In the event that the cost of repairs, including parts and labor for non-warrantable repairs only, as estimated by the County, is less than \$_____ the County shall have the right to have the repairs made in the County's shop and need not give notice to Contractor prior to the repairs being made.
 - b. In computing the cost of repairs, all County labor costs will be charged at the County's then prevailing rate. Present rate is \$65.00 per hour, increases not to exceed 20% per year. Parts shall be charged for at actual cost and shall be purchased from the authorized dealer for the original equipment manufacturer, if possible.
 - c. If the cost of repairs, including parts and labor for non-warrantable repairs only, is in excess of \$_____, as estimated by the County, the County shall submit to Contractor the estimated cost of the repairs, a detailed account of the work to be performed and an estimated time for completion of repair work. Contractor shall then submit an estimate of cost and time for completion of the work. Contractor's estimate shall be provided to the County within one (1) business day after Contractor's receipt of County's estimate. The County and Contractor will then mutually agree on the shop in which the repairs are to be performed. The lower of the two estimates and the time required to perform the repairs will be the primary factors in determining which shop will perform the repairs. If the repairs are to be done in the County's shop, the cost of such repairs shall be computed on the same basis as that set forth in Paragraph 2.b. If the repairs are to be done in Contractor's shop, the repairs will be billed to the County at Contractor's then prevailing rate. County is responsible to transport to Contractor's shop.
 - d. County and Contractor may agree that all or any portion of the repairs may be made in service shops other than those of the County or Contractor, if it is deemed advantageous to both parties.
 - e. Should delivery of repair parts by Contractor not be made to the County within five (5) working days following receipt of order, County shall provide written notice to Contractor and then a daily charge of \$500.00 shall be added to the cumulative cost of repairs for each additional full working day (after the initial five (5) working day period) that the part is not delivered. Parts shall be ordered by part number. Upon Contractor's presentation in writing of verifiable information to County that parts are not available by reason of strike, natural disaster or other act of God, or national emergency, the daily charge shall not be enforced.
 - f. Contractor may, at their option avoid the penalty set forth above in Paragraph. 2.e by supplying to the County, at no cost, a unit that is comparable to the motor grader needing repair, until the County's equipment is restored to service.
 - g. Contractor shall have the right to examine repair cost records at any reasonable time. The County will maintain records reflecting pertinent repair cost information and will make these records available for examination in a timely manner.

4. Items covered by guaranteed maximum cost of repairs

Contractor will be fully responsible for the total cost of repairs, parts and labor as follows (subject to the exclusions below and all other provisions of this Exhibit B.

a. Engine

Engine block and all internal and external components including air compressor, fuel, charging, cranking, exhaust, air intake, and cooling systems, radiator, fan and pulleys. **Excludes batteries, filters, fan belts, hoses, anti-freeze and engine oil.**

b. Powertrain

Complete powertrain including all pumps, motors, gears, shafts, bearings, seals, discs, plates, torque converter (where used), drive couplings, case, including linkage and external lines. **Excludes oil and filters.**

Exhibit B: Guaranteed Maximum Cost of Repairs (continued)

- c. Drive Axles/Assemblies
Complete drive axle/assemblies including shafts, bearings, seals, chains, gears, cases, drive motors/assemblies, and air bag if equipped. **Excludes lines, hoses and fluids.**
- d. Brakes
Complete braking system including friction and steel disc, shoes, master and slave cylinders, valves and control linkage. Includes operating linkage and exterior air lines. **Excludes fluids.**
- e. Steering
All steering controls, including articulation, valves, cylinders, pins and bearings. **Excludes oil.**
- f. Front Axles
Complete axle assemblies including bushings, seals, bearings, shafts, hubs and wheel components. **Excludes fluids.**
- g. Controls
All operating and electrical controls, (solenoids and switches) including valves, cylinders, control linkage. **Excludes oil and filter.**
- h. Main Frame
Complete mainframe assembly
- i. Hydraulic System
Complete hydraulic system including all pumps, valves, motors, and control linkages for all components and attachments. **Excludes oil lines, hoses, filters and fluids.**
- j. ROPS/Canopy
Complete assembly including heater., **Excludes glass.**
- k. Cab
Complete cab assembly including heater., **Excludes glass.**
- l. Gauges and Instrument
All gauges and instruments.
- m. Warning Devices
All warning devices including backup alarms. **Excludes strobe, beacons and lights.**

A major component failure (Item 4, a thru i) contaminating fluids such as oil, hydraulic oil, anti-freeze, etc. will be covered under this Contract.

B. Obligation of County

- 1. The equipment will be operated by County personnel in operations for which the equipment is designed and in a manner prescribed by the manufacturer. Repairs resulting from failure to do the foregoing will not count toward the Guaranteed Maximum Cost of Repairs amount.
- 2. The County will assume responsibility for costs of repairs due to fire, theft, accident, vandalism, acts of nature, or neglect or abuse directly caused by County personnel. Total repairs under such circumstances will not be included in computing the Guaranteed Maximum Cost of Repairs.
- 3. The County will assume at its expense all costs of fuel and fueling, engine and hydraulic oils, filters, belts, lubricants, greases, and the application thereof, anti-freeze, cutting edges, tires, hoses, batteries, lights, glass breakage, cleaning and repainting, and other items normally consumed in day-to-day operation. None of the foregoing will be included in computing the Guaranteed Maximum Cost of Repairs.
- 4. The County will maintain equipment in accordance with manufacturer's recommendations provided, however, the County reserves the right to use the same fuels, lubricants, and oils that it uses in other similar equipment unless specifically prohibited by the manufacturer's specifications. The County will have available a record of all scheduled maintenance performed. Contractor has the right to inspect equipment at any reasonable time and make recommendations for repairs, improved maintenance, etc. The County will follow such recommendations to the best of its ability. Repairs resulting from failure to do the foregoing will not be included in computing the Guaranteed Maximum Cost of Repairs.

Exhibit C: Trade In Allowance (1 Page)

<u>Item</u>	<u>Qty.</u>	<u>Description</u>	<u>Trade in Price</u>	<u>Extended Price</u>
1.	___	Pima County Motor Grader, Per specifications listed herein.	\$ _____	\$ _____
2.	___	Pima County Motor Grader, Per specifications listed herein.	\$ _____	\$ _____

List Asset Number (for each trade in):

Asset #: _____ Serial Number: _____ Model: _____ Year: _____

Location: _____ Contact Name/ Phone: _____

Number: _____

Trade in Amount: _____

Asset #: _____ Serial Number: _____ Model: _____ Year: _____

Location: _____ Contact Name/ Phone: _____

Number: _____

Trade in allowance will be determined by Contractor when Contractor completes a physical examination and review of the trade in. Pima County Fleet Services will provide the equipment and all information pertaining to the trade in equipment.

Fleet has the option to exercise the "trade in" amount or to auction at a public sale, whichever maximizes the profit to Pima County Fleet Services.

Exhibit D: Pricing Page
2019 Caterpillar Coop Contract Discounts

Cooperative Contracts -- Effective January 1, 2019

Track Type Tractors

D3	23.00%
D4	23.00%
D5	23.00%
D6	21.00%
D7	19.00%
D8	19.00%
D9	10.00%
D10	10.00%

*Note: Base machines are listed. There may be several different base machine configurations available. The base machine discount will be applied to any model configuration plus any and all options listed on the Caterpillar Machine price list.

Wheeled Excavators

M314F	26.00%
M315F	26.00%
M316F	26.00%
M317F	26.00%
M318F	26.00%
M320F	26.00%
M322F	26.00%

Material Handlers

MH3022	26.00%
MH3024	26.00%
MH3026	26.00%

Cold Planers

PM310	20.00%
PM312	20.00%
PM313	20.00%
PM620	20.00%
PM622	20.00%
PM820	20.00%
PM822	20.00%
PM825	20.00%

Reclaimers

RM300	20.00%
RM500	20.00%

Telehandlers

TH255	23.00%
TH3510	24.00%
TH357	24.00%
TH408	24.00%
TH514	24.00%
TL642	24.00%
TL943	24.00%
TL1055	24.00%
TL1255	24.00%

Motor Graders

12	30.00%
120	34.00%
140	30.00%
160	30.00%
14	19.00%

Skid Steer Loaders

226	21.00%
232	21.00%
236	21.00%
242	21.00%
246	21.00%
262	21.00%
272	21.00%

Multi-Terrain Loaders

257	21.00%
277	21.00%
287	21.00%
297	21.00%