

AGREEMENT BETWEEN THE CITY OF RAPID CITY

AND _____

FOR TWO (2) THREE-QUARTER TON PICKUPS

This Agreement is entered into this _____ day of _____, 2022, by and between the City of Rapid City, 300 Sixth Street, Rapid City, South Dakota, 57701, a South Dakota municipal corporation ("City") and _____, of _____, a _____ organized under the laws of the State of _____, ("Vendor"). This Agreement is effective once signed by all of the parties.

WHEREAS, the City Parks and Recreation Department solicited bids for Two (2) Three-Quarter Ton Pickups to be used by the Parks Maintenance Division; and

WHEREAS, submitted bids were evaluated in accordance with criteria listed in the advertised invitation for bids; and

WHEREAS, Vendor's submitted bid was selected in accordance with state bid law.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. VENDOR OBLIGATIONS

1.A Vendor shall provide Two (2) New Current Year Three-Quarter Ton 4X4 Regular Cab Long Box Pickups ("Vehicles") and accompanying warranties as detailed in the Request for Bids (Exhibit A). Vendor shall do everything as detailed in the Request for Bids (Exhibit A) and the Vendor's Bid Submission (Exhibit B).

1.B. Vendor agrees to deliver the Vehicles to the Parks Maintenance Division located at 2919 Canyon Lake Dr., Rapid City, SD no later than December 31, 2022.

2. CITY OBLIGATIONS

2.A. The City shall pay Vendor for the performance of the Agreement in current funds as follows:

_____ Dollars (\$_____)

The City will pay based upon its Net 45-day payment terms. Once Vendor delivers the Vehicles and City accepts the Vehicles, Vendor shall submit an invoice to the City Finance Office requesting payment. City shall pay within 45 days of the date that the invoice is submitted to the City Finance Office.

3. CONTRACT DOCUMENTS

3.A. The Request for Bids (Exhibit A) and Vendor's Bid Submission (Exhibit B) together with this Agreement, form the contract, and all are as fully a part of the contract as if herein set forth in length. Vendor further agrees and states that Vendor has read the advertisement calling for bids and has

studied the detailed specifications and that Vendor is familiar with the terms and conditions stipulated therein.

4. TERM

4.A. The term of the Agreement will be for a period of five (5) years after the effective date of the Agreement.

5. INDEMNIFICATION and HOLD HARMLESS

Vendor agrees to indemnify, defend, and hold harmless City officials, employees, agents, residents, and representatives against all liability, loss, damage, costs, and expenses including, but not limited to, costs of defense and reasonable attorney's fees, which City may hereafter suffer itself or pay to another party by reason of any claim, action, or right of action, at law or in equity, arising out of willful misconduct, error, omission or negligent act of Vendor and resulting in injury (including death) to any person or damage to any property to the extent such are caused by or are alleged to be caused by Vendor or its employees. Vendor agrees that this clause shall include claims involving infringement of patent or copyright.

6. LICENSES and PERMITS

Vendor shall be responsible for obtaining and paying costs of all necessary permits and licenses required by laws, rules and/or regulations set forth by the City, Pennington County or the State of South Dakota.

7. EMPLOYMENT DISCRIMINATION BY CONTRACTORS PROHIBITED/WAGES/INFORMATION

During the performance of a contract, the Respondent shall agree that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or disabilities that it will post in conspicuous places, available to employees and applicants for employment, notices setting forth nondiscrimination practices, and that it will state, in all solicitations or advertisements for employees placed by or on behalf of the Respondent, that it is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.

8. TERMINATION FOR DEFAULT

City shall have the right to terminate the Agreement with the Respondent if the Respondent fails to perform or comply with any of the terms, covenants, agreements or conditions herein.

Respondent may terminate the Agreement prior to the expiration of the term in the event of a material breach on the part of the City. Respondent shall provide 60 days notice prior to the termination date.

With prior notice to the City, Respondent shall have accompanied access to facilities to take possession of equipment.

9. SEVERABILITY

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

10. APPLICABLE LAWS

This Agreement shall be governed in all respects by the laws of South Dakota.

11. RELATIONSHIP

This Agreement does not create an employee relationship between the City of Rapid City and Vendor or its agents or employees. Nothing contained in this Agreement is intended to create a partnership or joint venture between the Vendor and the City of Rapid City. No agent of Vendor shall be the agent of the City, and Vendor covenants that it will not take any action in the name of, or by holding itself out as the agent of, the City of Rapid City.

12. TIME

Time is of the essence of this Agreement.

13. WAIVER

The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

14. AMENDMENTS

The Agreement may only be amended by a written document duly executed by all parties.

15. ENTIRE AGREEMENT

This Agreement, along with the Request for Bids (Exhibit A) and Vendor's Bid Submission (Exhibit B) constitutes the entire agreement between the parties and supersedes all prior negotiations, agreements, and understandings whether oral or written.

16. EXECUTION OF CONTRACT

This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

17. SEVERABILITY

If any provision of this Agreement is held unenforceable by court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

18. HEADINGS

The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction, or effect of each provision.

19. VENUE

This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation under this Agreement shall be resolved in the circuit court of Pennington County, State of South Dakota.

Dated this _____ day of _____, 2022.

VENDOR: _____

BY _____

PRINTED NAME _____

TITLE _____

STATE OF _____)

)SS.

COUNTY OF _____)

On this the _____ day of _____, 2022, before me the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the _____ of _____, and as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of _____.

In WITNESS WHEREOF, I hereunto set my hand and official seal.

(Seal)

Notary Public, State of _____

My Commission Expires: _____

Dated this _____ day of _____, 2022.

CITY OF RAPID CITY

Steve Allender, Mayor

Finance Director

(SEAL)