

**SOLICITATION AMENDMENT  
RFP No. 2019017  
CITY OF BUCKEYE  
CONSTRUCTION & CONTRACTING DIVISION  
623.349.6171**

**AMENDMENT #5**

**NOTE:** Attach to Original RFP. However, if Proposal has already been returned, complete this amendment and return for attachment to your Proposal by 1:00pm, Monday December 16, 2019.

City of Buckeye  
530 East Monroe Avenue  
Buckeye, Arizona 85326  
Attn: Tyra Bell, Purchasing Agent

**SOLICITATION: RFP No. 2019017: ENERGY SAVING PERFORMANCE CONTRACTING SERVICES**

**NOTICE TO VENDORS:**

**This Amendment forms a part of the Contract and clarifies, corrects, or modifies the original Request for Qualification documents prepared by the City of Buckeye.**

Bid Due Date and Time: **Monday December 16, 2019 at 1:00 PM**

Last Day for Questions: **October 24, 2019 at 5:00 PM**

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- Q1. On Page 8 Section IV: Scope of Work, Energy Savings Performance contract is listed as Attachment E.**  
a. This should read Attachment G
- Q2. On Page 8 Section IV: Scope of Work, the State Statutes on Performance Contracting attachment is listed as Attachment G.**  
a. This should read Attachment D
- Q3. On Page 12 Section VI: Form of Proposal/Special Instructions Contract Documents, the Investment Grade Audit & Project Development Contract is listed as Attachment D.**  
a. This should read Exhibit B
- Q4. On Page 12 Section Funding sources to support annual payment.**  
a. This should begin Section VI

**Q5. On Page 18 Section VII**

a. The City is requesting the cost and schedule of the IGA phase. The cost of the Entire Project will be determined at the conclusion of the IGA and will be negotiated based on the ECMs that are proposed.

**Q6. Attachment B-1 is duplicate of another document later in the solicitation**

a. The duplicate attachment is deleted.

**Q7. Financing Solicitation Attachment is listed as Attachment C-1**

a. This should read Attachment C

**Q8. On Page 5 of the Investment Grade Audit and Project Proposal Contract is reads: Energy Savings Performance Contract within [Number of Days – 120 days suggested, allowing sufficient time for contract negotiation, attorney review, and City processing]**

a. Energy Savings Performance Contract within 120 days

**Q9. On Page 6 of the Investment Grade Audit and Project Proposal Contract it currently reads: the City shall pay to ESCO a sum not to exceed One Hundred Ten Thousand dollars and zero cents \$100,000.00**

a. It should read: the City shall pay to ESO a sum not to exceed One Hundred Thousand dollar and zero cents \$100,000.00

**Q10. On Page 6 of the Investment Grade Audit and Project Proposal Contract it currently reads: The Investment Grade Audit and Energy Performance Proposal Contract shall be performed as described in Attachment A: Scope of Work.**

a. The Investment Grade Audit and Energy Performance Proposal Contract shall be performed as described in SECTION IV of the Solicitation and shall be made Attachment A: Scope of Work.

**Q11. On Page 9 of the Investment Grade Audit and Project Proposal Contract Number 5 Insurance is omitted.**

a. Insurance requirement attached to this amendment.

**Q12. On Page 10 of the Investment Grade Audit and Project Proposal Contract Number 10 the term currently reads: The term of this Contract will become effective upon approval by the [Controller] and acceptance by the City. The term shall end [number of days plus 15 days to allow for processing of check (suggest 135 days)] after signing of the Notice of Acceptance of Investment Grade Audit and Project Proposal Contract 11 Investment Grade Audit Report and Project Development Proposal (Attachment B) by the City.**

a. The term of this Contract will become effective upon approval by the City Council and acceptance by the City. The term shall remain in full force and effect until such times as the scope of services is completed and approved by the City, unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement.

**Q13. On Page 14 of the Investment Grade Audit and Project Proposal Contract Number signature page is incorrect**

- a. The correct signature page is attached to this amendment.
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**The balance of the specifications and instructions remain the same. Vendors must acknowledge receipt and acceptance of this amendment by returning the entire amendment with the Proposal.**

**PLEASE ACKNOWLEDGE YOUR FIRM'S RECEIPT OF THIS AMENDMENT BY SIGNING THE ATTACHED SOLICITATION AMENDMENT ACKNOWLEDGEMENT.**

**SOLICITATION AMENDMENT ACKNOWLEDGEMENT**

**RFP No. 2019017**

**AMENDMENT NUMBER 5**

**AMENDMENT ISSUE DATE: December 5, 2019**

Vendor certifies that Vendor has read, understands, and will fully and faithfully comply with this Request for Proposals, its attachments and any referenced documents. Vendor also certifies that this offer was independently developed without consultation with any of the other Vendors or potential Vendors.

Name of Company: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

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

City, State, Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

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

**5.1.3a General.**

**5.1.3b Insurer Qualifications.** Without limiting any obligations or liabilities of the Consultant, the Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

**5.1.3c No Representation of Coverage Adequacy.** By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect the Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve the Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

**5.1.3d Additional Insured.** All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage Parts of this Agreement.

**5.1.3e Coverage Term.** All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

**5.1.3f Primary Insurance.** The Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

**5.1.3g Waiver.** All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of the Consultant. The Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

**5.1.3h Policy Deductibles and/or Self-Insured Retentions.** The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. The Consultant shall be solely responsible for any such deductible or self-insured retention amount.

**5.1.3i Use of Sub-consultants.** If any work under this Agreement is subcontracted in any way, the Consultant shall execute written agreements with its sub-consultants containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and the Consultant. The Consultant shall be responsible for executing any agreements with its sub-consultants and obtaining certificates of insurance verifying the insurance requirements.

**5.1.3j** Evidence of Insurance. Prior to commencing any work or services under this Agreement, the Consultant will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by the Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. In the event any insurance policy required by this Agreement is written on a "claims made" basis, coverage shall extend for two years past completion of the Services and the City's acceptance of the Consultant's work or services and as evidenced by annual certificates of insurance. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be the Consultant's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title of this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability - Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 03 97 or equivalent.

(b) Auto Liability - Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability - Follow Form to underlying insurance.

(2) The Consultant's insurance shall be primary insurance as respects performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against the City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by the Consultant under this Agreement.

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives"

shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

### **5.1.3k** Required Insurance Coverage.

**5.k.1** Commercial General Liability. The Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent consultants, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

**5.k.2** Vehicle Liability. The Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on the Consultant’s owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant’s work or services under this Agreement. Coverage will be at least as broad as ISO coverage code “1” “any auto” policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

**5.k.3** Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Services, and the Consultant shall be required to submit certificates of insurance and a copy of the declaration page(s) of the insurance policies evidencing proper coverage is in effect as required above.

**5.k.4** Workers’ Compensation Insurance. The Consultant shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the Consultant’s employees engaged in the performance of work or services under this Agreement and

shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

**5.1.3l** Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or materially change without 30 days' prior written notice to the City.

**5.1.3m** It is agreed and understood ESCO shall maintain in full force and effect adequate commercial general liability insurance and property damage insurance, as well as workmen's compensation and employer's liability insurance pursuant to the State insurance requirements as defined below.

**5.1.3n** The ESCO shall obtain, and maintain at all times during the term of this Agreement, insurance in the following kinds and amounts.

1. Standard Workers' Compensation and Employer's Liability as required by State statute, including occupational disease, covering all employees at the work site.
2. General Liability (minimum coverage)
  - a) Combined single limit of \$600,000 written on an occurrence basis.
  - b) Any aggregate limit will not be less than \$1,000,000.
  - c) The ESCO must purchase additional insurance if claims reduce the annual aggregate below \$600,000.
3. Automobile Liability (minimum coverage) in the amount of \$600,000 combined single limit
4. The City shall be named as an additional insured on each commercial general liability policy.
5. The insurance shall include provisions preventing cancellation without 30 calendar days prior written notice, by certified mail to the Principal Representative
6. ESCO shall be responsible for all claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of the Services contemplated in this Contract, provided that any such claim, damage, loss or expense is caused by any negligent act, error or omission of ESCO, any Consultant or associate thereof, or anyone directly or indirectly employed by ESCO. ESCO shall submit a Certificate of Insurance at the signing of this Contract and also any notices of Renewal of said Policy as they occur.

Proper Signature Page

IN WITNESS WHEREOF, the City of Buckeye by its Mayor, Jackie A. Meck has hereunto subscribed his name this day of \_\_\_\_\_.

**CITY:**

THE CITY OF BUCKEYE, ARIZONA

An Arizona Municipal Corporation

By: \_\_\_\_\_  
Jackie A. Meck, Mayor

ATTEST:

\_\_\_\_\_  
Lucinda Aja, City Clerk

RECOMMENDED:

\_\_\_\_\_  
Christopher A. Williams, Manager  
Construction & Contracting

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

VENDOR NAME

By: \_\_\_\_\_

Its: \_\_\_\_\_

