



**TOWN OF MARANA
REQUEST FOR PROPOSALS (RFP)**

Solicitation Number: 2024-004

Solicitation Title: Online Stores and Branded Merchandising

Release Date: Thursday, May 2, 2024, 2024, at 8:00am Local Time

Final Date for Inquiries: Thursday, May 16, 2024, at 3:00pm Local Time

Due Date and Time: Thursday, June 6, 2024, at 3:00pm Local Time

Submittal Location: Marana Municipal Complex
First Floor Reception Desk
11555 W. Civic Center Drive
Marana, AZ 85653

Solicitation Contact for Inquiries: Vicky Edwards
Procurement Officer
11555 W. Civic Center Drive
Marana, Arizona 85653
(520) 382-2642
vedwards@maranaaz.gov

This solicitation is available at **www.Publicpurchase.com**.

All prospective offerors shall be responsible for obtaining the RFP and any subsequent related documents from the Town's partner: **www.PublicPurchase.com**. This system provides automatic notification and transmittal of solicitation opportunities. To view a solicitation, you must be registered with Public Purchase. The Town will not be responsible for the failure of a prospective offeror to obtain addenda and other information related to this RFP.

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Schedule

Released	Thursday, May 2, 2024, at 8:00am Local Time
Pre-submittal Meeting	Thursday, May 9, 2024, at 10:00am Local Time Microsoft Teams Need help? Join the meeting now Meeting ID: 259 799 513 508 Passcode: fMymzX
	<hr/> Dial-in by phone +1 646-838-1601,,487735741# United States, New York City Phone conference ID: 487 735 741#
Final Date for Inquiries	Thursday, May 16, 2024, at 3:00pm Local Time
Due Date and Time	Thursday, June 6, 2024, at 3:00pm Local Time
Evaluation	TBD
Interviews if Necessary	TBD

All inquiries regarding this RFP shall be directed to the Solicitation Contact for Inquiries identified on page 1 of this solicitation.

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Instructions to Offerors

1. Preparation of Proposal:

- a. All proposals must include the forms provided in this Request for Proposal package. It is permissible to copy these forms if necessary. Faxed or e-mailed proposals will not be considered.
- b. The Offer and Acceptance form must be signed by a person authorized to sign the offer and included in the proposal packet.
- c. Erasures, interlineations, or other modifications in the proposal must be initialed in original ink by the authorized person signing the Offer.
- d. If price is a consideration and in case of error in the extension of prices in the proposal, the unit price will govern. No proposal will be altered, amended, or withdrawn after the specified proposal due date and time.
- e. Periods of time, stated as a number of days, will be calendar days.
- f. It is the responsibility of all prospective Contractors to examine the entire Request for Proposal package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after the proposal due date and time.

2. **Submission of Proposal:** Proposals shall be submitted in **one original (hard/physical format), four hard copies, and one flash drive with the proposal in a PDF format. The flash drive shall be submitted in a sealed envelope.** The original shall be marked "ORIGINAL". Detailed written responses shall be limited to 12 pages, single sided on 8 ½" x 11" papers, using a font no smaller than 12 point. Attachments or reports requested in this RFP are not considered a part of the 12-page limit.

The offeror's name and address must appear on the outside of the sealed envelope, which shall be clearly marked as: Town of Marana RFP 2024-004 Online Stores and Branded Merchandising.

The submittal shall include the following and be tabbed and in the following order:

- a. Signed Offer and Acceptance form
 - b. Responses to Evaluation Criteria
 - c. Attachment "F" Reference List
 - d. Signed copies of Addenda, if applicable
3. **Inquiries:** Any questions related to the Request for Proposals must be directed to the Solicitation Contact for Inquiries contact whose name appears on the cover page. The prospective Contractor may not contact or ask questions of the department for which the services are being procured. Questions shall be submitted in writing. Any correspondence related to a Request for Proposals should refer to the appropriate Request for Proposals number, page, and paragraph number.
 4. **Withdrawal of Proposal:** At any time prior to the specified proposal due date and time, a prospective Contractor (or designated representative) may withdraw the proposal in writing.
 5. **Solicitation Amendment:** If the Town issues a Solicitation Amendment, an acknowledgment of receipt of the Solicitation Amendment must be included in the proposal.

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6. **Business License:** The successful Contractor must have a valid business license with the Town of Marana Finance Department by the time the contract is awarded.
7. **Award of Contract:**
 - a. Unless the prospective Contractor states otherwise, or unless provided within this Request for Proposals, the Town reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the Town.
 - b. Notwithstanding any other provision of this Request for Proposals, the Town expressly reserves the right to:
 - 1) Waive any immaterial defect or informality; or
 - 2) Reject any or all proposals, or portions thereof; or
 - 3) Reissue a Request for Proposals.
 - c. A response to a Request for Proposals is an offer to contract with the Town based upon the terms, conditions and specifications contained in the Town's Request for Proposals and the written amendments thereto, if any. Proposals do not become contracts unless and until they are accepted by the Town. A contract is formed when accepted by the Town, but not finalized until a written Notice of Award is provided to the successful Offeror(s). The Contract has its inception in the award document, eliminating a formal signing of a separate contract. **For that reason, all of the terms and conditions of the procurement Contract are contained in the Request for Proposals, unless modified by a Solicitation Amendment or a Contract Amendment.**
8. **Taxes:** The Town of Marana is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate item.

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Scope of Work

1. Introduction

The Town of Marana is issuing this Request For Proposals seeking proposals from qualified, licensed vendors interested in providing professional services to create the following:

- b. A public online store where customers can buy promotional Town-branded materials for a variety of apparel, souvenir, gift shop items and materials available for purchase, which support, market, and promote the Town's tourism, hospitality, and customer service operations, activities and programs, community identity, and quality of life. These materials will be manufactured and stored by the Contractor with the flexibility to possibly have a physical store on premises in the future.
- c. An employee-only/internal-facing ordering platform where Town employees can create and order branded materials for a variety of department needs, including employee awards, uniforms, special events, and more. These materials will be manufactured and stored by the Contractor as needed.

2. Background

The Town of Marana is the fastest growing community in southern Arizona with more people moving here every here. As the community continues to grow, staff has identified opportunities to create a sense of identity and place for residents. Some of these opportunities include a new Marana Community Center, where people can congregate and recreate in northern Marana, as well as a space to showcase Town-branded items. Additionally, the Town is working toward creating a vibrant downtown district with walkable commercial developments and gathering spaces. The Town also manages the Marana Visitor's Center at the Marana Chamber of Commerce through the Economic Development & Tourism Department, providing additional opportunities to promote Town-branded items within that Downtown district.

3. Purpose

The focus of this project is to:

- Identify, target, and develop new ways that the Town may best position itself to advance its community identity and tourism market and provide a public online store for members of the public to order merchandise.
- Create a streamlined process for Town employees to order branded materials for internal purposes using an employee-only/internal-facing ordering platform.

4. Scope

Town Responsibilities. Town shall be responsible for the following:

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Town shall assign a Town Representative associated with each project. All communications relating to the project services shall be exchanged between the Town Representative and the Contractor.

Town of Marana is the sole designer for all Town of Marana branded materials. Finished branding will be provided to the vendor to place on materials, as directed and approved by the Town.

Incoming Quality Inspection: Delivery of completed jobs will be subject to inspection and approval by the ordering Town department and the Communications Division authorized / assigned approver. The Town reserves the right to reject or refuse acceptance of products that do not meet quality standards. Town Representative will immediately notify the Contractor of any service deficiencies including, but not limited to (i) failure to perform services within the agreed upon time frame, (ii) materials delivered in damaged condition, (iii) unacceptable color variation, (iv) incorrect spelling, (v) poor quality or; (vi) wrong final count. Rejected work shall be at the expense of the Contractor(s).

Discover Marana related merchandise orders and items are the exception and ONLY require approval by the authorized approver for their purchases.

Contractor Requirements. Contractor shall be required to provide, at a minimum, the following materials and Services:

Contractor shall supply all supplies and equipment necessary for the performance and prompt execution and delivery of Services.

Provide a variety of customizable merchandise, including, but not limited to, apparel and accessories to be made available in a variety of colors.

Provide a public online store where Marana businesses, residents, and visitors can order their Town-branded merchandise. Contractor shall be responsible for receipt of payments for goods, services, and taxes due.

Provide an employee-only/internal-facing ordering platform to be integrated on the intranet website where employees can order Town-branded merchandise for department needs, including uniforms, awards, giveaways, special events, etc. Some items can be available for display similar as an online store (i.e., general apparel), while some items may be unique to just that department and not available for others to purchase and may require department approval for the requested items (i.e., awards.)

Contractor shall maintain a sample reference catalogue of the Town's standard merchandise and materials, to be made available on both the public online store and the employee-only/internal-facing ordering platform, electronically, and as a hard copy.

Contractor shall be responsible for providing all labor, equipment, material, storage, and consumables necessary to produce merchandise.

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Contractor shall be responsible for storage of all inventories associated with the online store front at no additional cost.

Contractor shall provide monthly inventory reporting with regards to orders and order fulfillment of orders.

Contractor shall provide support staff to assist in establishing requirements and problem resolution, at no additional charge.

Product quality

Product quality is to meet the highest industry standards in terms of readability and overall appearance. Acceptable quality is solely determined by the individual Town department and the Communications Division authorized / assigned approver.

Proofs

Proofs are required and are subject to Town approval before production of customized merchandise begins. Corrections or product changes may be made up until the final stages of the production of materials and merchandise. Unfortunately, these changes or corrections are often beyond the control of Town staff. The Town will endeavor to ensure that changes are kept to a minimum, and/or sufficient notice is given to the contractor when changes are necessary. These changes or corrections may include, but are not limited to additional text, graphics or photographs, sizing, or changes in materials.

New proofs shall be submitted to the Town for final approval if corrections are required. In most cases, a soft proof (pdf) will suffice. A hard proof will be needed to determine quality, color match, etc.

No claims for extra work shall be entertained, and any additional work on behalf of the Contractor shall be authorized in writing prior to commencement of the work.

Should the Contractor require more information or clarification on any project, it shall be obtained prior to the submission of the proposed proofs.

Any change in production that results in additional charges to the Town shall be discussed and accompanied with an email authorization, by a duly authorized employee of the Town of Marana ("Town Representative") prior to the commencement of the change. No invoices for additional charges shall be accepted without written authorization.

Art and file formats

Any designs, drawings, pictures, raw working files, etc. provided by the Town for use in the production of printed material involves the property rights of the Town and shall be held confidential by the Contractor(s).

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Provide Town Representative or designee with a PDF file of the final approved project as requested for any design project not handled in-house by Town staff.

Contractor must work with the designated Town Representative regarding content of print or branding projects.

All work completed will be subject to inspection and approval by the Town Representative and the Town reserves the right to reject and refuse acceptance of work. Rejected work shall be at the expense of the Contractor(s).

The Town requires Contractor(s) to have the capability to receive compatible graphics via electronic files (email, internet, flash drive). The Town generally uses Adobe Creative Suite products and Contractors shall be able to produce copies from all Adobe file formats, including PDF, PNG, JPG, EPS, and SVG.

Specifications.

The following product list is not an exhaustive list of all responsibilities or required products associated with the print services pertaining to Apparel items. It is intended to be an example of the items the Town may order.

Men's/gender neutral apparel

- Tee
- Long sleeve
- Crewneck tee
- Crewneck sweatshirt
- Pullover hoodie

Women's apparel

- Women's tank
- Women's tee

Kids' apparel

- Infant onesie
- Kids tee
- Toddler tee
- Kids pullover hoodie

Hats

- Bucket hat
- Cap

Accessories

Tote bags
Backpack
Gym bag
Water bottle
Stickers

Online Store

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The Contractor will provide a public online store where residents and visitors can order merchandise that will then be shipped directly to their preferred address. As part of the public online store, the Contractor will receive all payments directly and be PCI compliant by adhering to the Payment Card Industry Data Security Standard (PCI DSS).

The Contractor will also provide an employee-only/internal-facing ordering platform where employees can custom-design as needed and order branded materials that will then be shipped to the Town.

PCI Compliance

PCI DSS AND PABP COMPLIANCE. Contractor acknowledges, warrants, and will maintain all applicable PCI DSS requirements to the extent the service provider handles, has access to, or otherwise stores, processes, transmits or provides the service that controls or could impact the security of the cardholder data.

Furthermore, Contractor must certify at time of contract/agreement to be in compliance and continue to meet all applicable requirements by providing validation either by appearing on the VISA Global Registry of Service Providers (CISP), Payment Card Industry Security Standards Council Validated Payment Applications list (if applicable) or provide a completed and signed Attestation of Compliance (AOC) signed by a PCI approved Quality Security Assessor (QSA). Any change in the Contractor's certification requires prompt (within thirty (30) days) written notification to the Town of Marana.

Furthermore, Contractor agrees to provide to the Town of Marana upon request, any supporting compliance documentation such as but not limited to Approved Scan Vendor (ASV) Attestation of Compliance (AOC), external scan results, penetration testing results, and/or a completed Service Provider Self-Assessment Questionnaire (SAQ) D (if not completing a third-party assessment).

Contractor agrees to indemnify the Town of Marana for any breach of its cardholder data attributed to the application, system, or Contractor controlled interface to CHD or service provided by the Contractor. Contractor agrees to notify the Town of Marana authorized representative within 24 hours in the event of unauthorized release of cardholder data.

Contractor must provide written documentation, which outlines the specific PCI DSS compliance responsibilities of both the Contractor and the Town of Marana.

Pricing

Individual merchandise should be cost-effective and reasonably priced on the online store. The Town does not intend to make a profit on the items.

5. Project Schedule

- Selection of contractor(s).

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- Selection of materials to be branded (apparel, accessories, etc.) on the public online store.
- Selection of materials to be branded (apparel, accessories, etc.) and available for purchase on the employee-only/internal-facing ordering platform. This also includes the selection of approved fabric colors, etc.
- The Town will provide the approved graphic art for both the public online store and the employee-only/internal-facing ordering platform.
- Creation and approval of the public online store and the employee-only/internal-facing ordering platform.

Evaluation Criteria

Proposals submitted will be evaluated by a Review Committee. During the evaluation process, the Review Committee and the Town reserve the right, where it may serve the Town's best interest, to request additional information or clarifications from proposers, or to allow corrections of errors or omissions. At the discretion of the Town or the Review Committee, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The Town reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the Contractor of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Town and the Contractor(s) selected.

The following evaluation criteria will be used to determine which Proposer(s) are selected:

1. Qualifications and Experience (30 points)
2. Past Performance of the Key Personnel Assigned to this Project (20 points)
3. Project Understanding and Method of Approach (30 points)
4. Fee Proposal (for internal purchases) (20 points)

Requirements Specific to Evaluation Criteria

1. Qualifications and Experience
 - a. Describe relevant experiences with municipalities similar in type and scope and various services provided for these services.
 - b. Management and organizational capabilities to include turnaround time of goods and services being provided from inception of request to delivery.
 - c. Key staff involved in program support and availability of staff to provide on-site presence.
2. Past Performance of the Key Personnel Assigned to this Project
 - a. Identify the account manager, the project manager, key staff and subcontractors. Present brief discussion regarding how the team's qualifications and experience relate to the specific services.
 - b. Provide qualifications and relevant experience of individual(s).
 - c. Provide a list of certifications and licenses for all key personnel.
 - d. Provide time commitment of key / dedicated staff members.

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- e. Key staff involvement in program support and availability of staff to provide on-site presence.
 - f. Provide a minimum of three professional references of similar projects in Attachment "A" References List.
3. Project Understanding and Method of Approach
- a. State an understanding of the scope of this project.
 - b. Provide a point-by-point response to all elements in the Scope of Work section to demonstrate how all of the elements will be met.
 - c. The successful Proposer(s) will demonstrate that they can complete the items in the scope more efficiently and within the timeline of the schedule. Note the major issues and potential risks your team has identified and how you intend to address those issues.
 - d. Stakeholder coordination is expected to be part of the success of this project. Describe any experience your project team has with public involvement or stakeholder engagement, development of animated graphics, and preparation of outreach materials for similar projects as it would pertain to the scope of this project.
 - e. The tentative completion for the completion of work by the supplier will be based on each individual project / assignment. Provide a project work plan and project schedule showing major milestones, activities, and deliverables for the Online Storefronts.
4. Fee Proposal
- a. Fee proposal for all Online Store and Branding services described in this RFP.
 - b. Include fee schedule/hourly rates for any other relevant services that may be required for the performance of the service described in this RFP.
5. Exceptions to this Request for Proposals
- The proposer shall certify that it takes no exception(s) to any portion of the RFP. ***If the proposer does take exception(s) to any portion of the RFP, the specific portion of the RFP to which exception(s) is taken shall be identified and explained.***

Special Terms and Conditions

1. **Term:** This contract is for an initial term of one-year from date of execution of the contract with the option of up to four one-year renewals.
2. **Contract Extension:** By mutual written contract amendment, the contract may be extended for a period not to exceed one year. The Contractor shall be notified in writing by the Town Procurement Officer of the Town's intention to extend the contract period at least 30 calendar days prior to the expiration of the then-current contract period. Price adjustments will only be reviewed during contract renewal.
3. **Payment Terms:** Unless otherwise agreed to in advance, the Contractor shall submit an invoice to the Town in installments during the contract term. The Town shall pay Contractor within 30 days of receipt and acceptance of a complete and accurate invoice for payment. The Town will consider alternative payment terms based upon the specific circumstances or requirements of services described in this RFP.
4. **Miscellaneous:** Unless exception is clearly indicated in the proposal, and subsequently accepted by the Town, the following Standard Terms and Conditions will be incorporated in the contract.

Standard Terms and Conditions

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1. Definition of Terms: As used in this Solicitation and any resulting Contract/ Agreement, the terms listed below are defined as follows:

1.1. "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2. "Contract" or "Agreement" means the combination of the Solicitation, including, where applicable, the Standard and Special Instructions to Offerors, the Standard and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer, and any Best and Final Offers, any Solicitation Amendments or Contract Amendments, and any associated Purchase Orders or Task Orders.

1.3. "Contract Amendment" means a written document signed by the Purchasing Director that is issued for the purpose of making changes in the Contract.

1.4. "Contractor" means any person who has a Contract or Agreement with the Town.

1.5. "Days" means calendar days unless otherwise specified.

1.6. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9. "Purchasing Director" means the person, or his or her designee, duly authorized by the Town to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10. "Services" means the furnishing of labor, time or effort by a Contractor or sub-Contractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11. "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12. "Town" means the Town of Marana.

1.13. "Town Fiscal Year" means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

2.1. Arizona Law. Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code (UCC) and the Marana Town Code.

2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

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2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the Town and as they may be amended, the following shall prevail in the order set forth below:

2.3.2. Special Instructions to Offerors;

2.3.3. Standard Terms and Conditions;

2.3.4. Statement or Scope of Work;

2.3.5. Specifications;

2.3.6. Attachments;

2.3.7. Exhibits;

2.3.8. Purchase Orders or Task Orders.

2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6. No Parol Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

3.1. Records. The Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the Town at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2. Audit. At any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the Town and, where applicable, the federal government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.3. Facilities Inspection and Materials Testing. If applicable, the Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. If applicable, the Town

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shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the Town determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the Town for testing and inspection.

3.4. Notices. Notices to the Contractor required by this Contract shall be made by the Town to the person indicated as the contact person in the Contractor's Offer, unless otherwise stated in the Contract. Notices to the Town required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Purchasing Director and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.5. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Purchasing Director.

3.6. Property of the Town. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the Town. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the Town.

3.7. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this Contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the Town shall be considered the creator of such Intellectual Property. The Town of Marana shall own the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the Town, within 30 days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the Town and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the Town. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the Town without the express written authorization of the Town.

4. Costs and Payments

4.1. Invoices. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the Town within 30 days, unless a different payment schedule is agreed to.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.4. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

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4.5. Town and Local Transaction Privilege Taxes. The Town of Marana is subject to all applicable state transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.6. Tax Indemnification. Contractor and all subcontractors shall pay all federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and shall require all subcontractors to, hold the Town harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Workers' Compensation.

4.7. IRS W9 Form. In order to receive payment, the Contractor shall have a current IRS W9 Form on file with the Town of Marana, unless not required by law.

4.8. Availability of Funds for the Next Town Fiscal Year. Funds may not presently be available for performance under this Contract beyond the current Town fiscal year. No legal liability on the part of the Town for any payment may arise under this Contract for the next Town fiscal year until funds are made available for performance of this Contract.

4.9. Availability of Funds for the Current Town Fiscal Year. Should the Town Council reduce the appropriations for any reason, causing these goods or services to be unfunded or not fully funded, the Town may take any of the following actions:

4.9.1. Accept a decrease in price offered by the Contractor

4.9.2. Cancel the Contract

4.9.3. Cancel the Contract and re-solicit the requirements

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Purchasing Director who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the Purchasing Director in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any subcontract under this Contract for the performance of this contract without the advance written approval of the Purchasing Director. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Purchasing Director. The Town shall not unreasonably withhold approval.

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6. Risk and Liability

6.1. Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency). The Contractor agrees to defend, save, hold harmless, and indemnify the Town, its officials, employees, agents, successors, and assigns from and against any and all manner of claims, suits, lawsuits, action or actions, causes or causes of action, liabilities, damages, and other claims and demands of whatsoever nature or kind, in law or in equity, in tort or in contract, or otherwise caused by or resulting from the Contractor's errors, omissions, or negligent acts in the performance of services pursuant to this Contract.

6.2.2. Public Agency Indemnification. To the fullest extent permitted by law, each party (as "Indemnitor") agrees to indemnify, defend and hold harmless the other party, its officers, officials, employees, agents, volunteers, successors, and assigns (as "Indemnitees") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney fees), hereinafter collectively referred to as "claims," arising out of bodily injury to any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitees, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers, successor, or assigns, provided, however, that the Indemnitor shall have no obligation to indemnify the Indemnitee for the Indemnitee's passive negligence.

6.2.3. Patent and Copyright. The Contractor shall indemnify and hold harmless the Town against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the Town of materials furnished or work performed under this Contract. The Town shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

6.3. Force Majeure. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.3.1. Not Force Majeure. Force majeure shall not include the following occurrences:

6.3.1.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

Town of Marana, Arizona

6.3.1.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.3.1.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.3.2. Notice. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4. Third Party Antitrust Violations. The Contractor assigns to the Town any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

6.5. Survival of Indemnification Provisions. The indemnification provisions set forth in this Article shall survive termination of this Agreement.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions or in the Contract, the Contractor warrants that, for one year after acceptance by the Town of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3. Fitness. The Contractor warrants that any material supplied to the Town shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this article are not affected by inspection or testing of or payment for the materials by the Town.

Town of Marana, Arizona

7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Purchasing Director, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. Town's Contractual Remedies

8.1. Right to Assurance. If the Town in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Purchasing Director may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the Town's option, be the basis for termination of the Contract under the Standard Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The Town may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the Town after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Purchasing Director shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the Town under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the Town may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The Town shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the Town, or damages assessed by the Town, concerning the

Town of Marana, Arizona

Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Standard Terms and Conditions.

9. Contract Termination

9.1. **Gratuities.** The Town may, by written notice, terminate this Contract, in whole or in part, if the Town determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the Town for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The Town, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.2. **Suspension or Debarment.** The Town may, by written notice to the Contractor, immediately terminate this Contract if the Town determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the Town.

9.3. **Termination for Convenience.** The Town reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the Town without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the Town. In the event of termination under this paragraph, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the Town upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

9.4. Termination for Default.

9.4.1. In addition to the rights reserved in the contract, the Town may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Purchasing Director shall provide written notice of the termination and the reasons for it to the Contractor.

9.4.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the Town on demand.

9.4.3. The Town may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the Town for any excess costs incurred by the Town in procuring materials or services in substitution for those due from the Contractor.

Town of Marana, Arizona

9.5. Continuation of Performance through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims.

All contract claims or controversies under this Contract shall be resolved by the Purchasing Director with appeal to the Town Manager.

11. Arbitration.

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative and political review.

12. Compliance with Laws

12.1. General. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations, standards and executive orders, without limitation to those designated within these Terms and Conditions.

12.2. Non-Discrimination. The Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09, which supersedes Executive Order 99-4 and amends Executive Order 75-5, and which is hereby incorporated into the Contract as if set forth in full herein. During the performance of the Contract, the Contractor shall 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.

12.3. Americans with Disabilities Act. The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

12.4. Immigration Laws. The Contractor warrants that it, and any subcontractor who performs any work for the Contractor under this Contract, will at all times comply with all federal immigration laws and regulations that relate to its employees and will comply with A.R.S. § 23 214 (A). The Contractor acknowledges that pursuant to A.R.S. § 41 4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract, and that the Town retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

12.5. Workplace Safety Laws.

12.5.1. The Contractor shall keep fully informed of and at all times observe and comply with all federal and state laws, all local laws, ordinances and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work or which in any way affect the conduct of the work, including without limitation the Drug-Free Workplace Act, Occupational Safety and Health Act, and all other applicable laws. The Contractor shall defend, hold harmless and indemnify the Town, its representatives and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by the Contractor or by any of the Contractor's subcontractors or suppliers, or by any of their employees.

Town of Marana, Arizona

12.5.2. The Contractor shall take all necessary precautions for the safety of employees on the work site and other persons who may be affected thereby, and shall comply with all applicable provisions of federal, state and local safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. The Contractor shall erect and properly maintain at all times, as required by the condition and progress of the work, all necessary safeguards and traffic control devices for the protection of workmen and the public and shall post danger signs warning against the hazards created by the construction, including, without limitation, operating or parked equipment, obstructions, changes in grade, scaffolding, excavations and falling materials.

12.5.3. The Contractor warrants it is fully familiar and shall comply with all of the safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 641 - 678, or as amended or recodified from time to time), and the Hazard Communication Act relating to the use of hazardous materials (29 C.F.R. 1910 - 1200, or as amended or recodified from time to time), as promulgated by the federal government and as implemented by the State of Arizona, and that it will be solely responsible for all fines and penalties provided for by law for any violation of such Act and, furthermore, shall require all subcontractors to comply with such Acts and with the provisions of this section. Any claims arising out of alleged violations of such Acts are covered by the indemnification set forth in Article 8 above.

12.6. Israel Boycott Divestments. The Contractor certifies that it is not currently engaged in, and agrees for the duration of the Contract to not engage in, a boycott of Israel as defined by A.R.S. §35-393.

12.7 Pursuant to and in compliance with A.R.S. § 35-394, Contractor hereby agrees and certifies that it does not currently, and agrees for the duration of this Contract that Contractor will not, use: (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (3) any Contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware during the term of the contract that the company is not in compliance with this written certification, the company shall notify the Town within five business days after becoming aware of the noncompliance. If Contractor does not provide the Town with a written certification that Contractor has remedied the noncompliance within 180 days after notifying the Town of the noncompliance, this Contract terminates, except that if the contract termination date occurs before the end of the remedy period the Contract terminates on the Contract termination date. Contractor also hereby agrees to indemnify and hold harmless the Town, its officials, employees, and agents from any claims or causes of action relating to the Town's action based upon reliance upon this representation, including the payment of all costs and attorney fees incurred by the Town in defending such as action.

13. Insurance

13.1. Requirements. Except as otherwise provided in this Article, the Contractor and any subcontractor who performs any work for the Contractor under this Contract shall maintain insurance with carriers acceptable to the Town throughout the term of this Contract with the following required minimum coverages and limits:

Workers' Compensation

Statutory

Town of Marana, Arizona

Employer's Liability	U.S. \$1,000,000
Commercial General Liability	U.S. \$1,000,000 per occurrence
	U.S. \$2,000,000 aggregate
Business Auto Liability	U.S. \$1,000,000 combined single limit
Crime Insurance	U.S. \$1,000,000
Technological E&O Liability	U.S. \$2,000,000
Cyber Liability	U.S. \$2,000,000

13.2. Evidence of Insurance. The Contractor shall deliver one or more certificates of insurance evidencing coverage as described in this Article, including coverage required of any subcontractor, to the Town upon execution of the Contract, prior to commencing any work pursuant to the Contract. The Contractor shall also deliver new certificates of insurance each time the policy(s) is updated. Certificates shall be delivered to the Purchasing Director, 11555 W. Civic Center Drive, Marana, Arizona 85653.

13.3. Additional Insured. The Town shall be named as an additional insured on all liability insurance policies required by section 13.1 above except Employer's Liability and Worker's Compensation. As an additional insured, the Town shall be provided coverage for any liability arising out of operations performed in whole or in part by or on behalf of the Contractor or any subcontractor. The Contractor shall deliver additional insured endorsement(s) along with the certificate(s) of insurance required by section 13.2 above. The additional insured endorsement form identification number shall also be included within the description box on the certificate of insurance and the applicable policy number shall be included on the endorsement.

13.4. Waiver of Subrogation. All policies required pursuant to this Article shall be endorsed to contain a waiver of transfer of rights of recovery (subrogation) against the Town, its agents, officers, officials, and employees for any claims arising out of the Contractor's or any subcontractor's work or service. Endorsements evidencing this waiver of subrogation shall be provided to the Town along with all other insurance documentation required by this Article.

13.5. Modification. The coverage requirements specified in this Article may not be changed or modified except by written agreement signed by all Parties.

13.6. Notice of Cancellation. The Contractor shall give the Town at least 30 calendar days' written notice prior to a planned cancellation or reduction of any coverage required by this Article. The Contractor shall give the Town immediate notice of any other cancellation or reduction of any coverage required by this Article. Cancellation or reduction of any coverage required by this Article is grounds for termination of the Contract by the Town.

14. Confidential Information

14.1. If a person believes that a proposal, offer, specification, or protest contains information that should be withheld, a statement advising the Purchasing Director of this fact will accompany the submission and the information will be identified.

14.2. The information identified by the person as confidential will not be disclosed until the Purchasing Director makes a written determination.

Town of Marana, Arizona

14.3. The Purchasing Director, in consultation with the Legal Department, will review the statement and information and will determine in writing whether the information will be withheld. The Town is obligated to comply with Arizona Public Records laws A.R.S. §39-221 *et seq.*

14.4. If the Purchasing Director determines to disclose the information, the Purchasing Director will inform the Contractor in writing of such determination so that the Contractor or subcontractor may, at its option, seek a protective order or other appropriate remedy.

15. Responsible Offeror:

An Offeror determined by the Purchasing Director to have the following qualities:

15.1. The ability, capacity, experience and skill to provide the goods and/or services in accordance with proposal specifications;

15.2. The ability to provide the goods and/or services promptly, or within the time specified, without delay or interference;

15.3. The equipment, facilities and resources of such capacity and location to enable the Contractor to provide the goods and/or services;

15.4. The ability to provide future maintenance, repair, parts and service for the use of the goods purchased, when applicable;

15.5. The quality and adaptability of the materials, supplies or services required or necessary to the particular use;

15.6. The financial resources to perform the Contract.

16. Responsive Offeror:

An Offeror determined by the Purchasing Director to have submitted a proposal that conforms in all material respects to the requirements of the proposal documents.

17. Cooperative Purchasing

This Contract is available to public procurement units as a cooperative purchasing agreement pursuant to A.R.S. § 41-2632. The Town shall not be responsible for any disputes arising out of transactions made by others and shall not be liable for any violation of this Contract by, or the actions or inaction of, an eligible procurement unit related to this Contract. Receipt, inspection and payment for materials and services cooperatively procured under this Contract shall be the exclusive obligation of the procuring agency. The procuring agency shall not use this Contract to obtain additional concessions or reduced prices for similar materials and services. The failure of the eligible procurement unit to secure performance from the Contractor in accordance with the terms and conditions of its purchase order does not necessarily obligate the Town to exercise its own right or remedies.



Town of Marana, Arizona

Offer and Acceptance

OFFER

TO THE TOWN OF MARANA:

The Undersigned hereby offers and agrees to furnish services in compliance with all terms and conditions, scope of work, specifications, and amendments in the Request for Proposals.

For Clarification of this Offer contact:

Contractor Name

Name

Address

Title

City State ZIP

Phone

Signature of Person Authorized to Sign/Date

Fax

Printed Name

Email

Title

ACCEPTANCE OF OFFER AND NOTICE OF AWARD (TOWN USE ONLY)

The Offer is hereby accepted. Contractor is now bound to provide the services listed in the attached contract and based upon the Request for Proposals, including all terms, conditions and specifications, the scope of work, amendments, Contractor's Fee Proposal, and any best and final offers, as accepted by the Town.

The Contractor has been cautioned not to commence any billable work or to provide any services under this contract until Contractor is directed to do so in writing by the undersigned.

Contract No. _____

TOWN OF MARANA, an Arizona municipal corporation

Attest:

Awarded this __, day of _____, 2024

David Udall, Town Clerk

Yiannis Kalaitzidis, Finance and Purchasing Director

Approved as to form:

Libby Shelton, Deputy Town Attorney



Attachment A - Reference Sheet

References for:

Offerors shall provide references on this form.

1. Name _____
 Company _____ E-mail _____
 Phone _____ Fax _____
 Dates of Service: from _____ to _____

 Comments _____

2. Name _____
 Company _____ E-mail _____
 Phone _____ Fax _____
 Dates of Service: from _____ to _____

 Comments _____

3. Name _____
 Company _____ E-mail _____
 Phone _____ Fax _____
 Dates of Service: from _____ to _____

 Comments _____

Town of Marana, Arizona

Attachment B - Examples of Town of Marana-branded materials

Public Online Store:



Town of Marana, Arizona

Employee only / Internal facing online ordering platform

