

GENERAL SERVICES CONTRACT
Water Meter Replacement

THIS GENERAL SERVICES CONTRACT (this “Contract”), made and entered into this _____ day of _____, 202____ (the “Effective Date”), by and between Metron Farnier, LLC, a Colorado limited liability company (the “Vendor”), and the Town of Jerome, an Arizona municipal corporation (the “Town”). The Town and the Vendor are the only Parties to this Contract; each is an individual “Party,” and together they are the “Parties.”

RECITALS

A. The Town issued a Request for Proposals, “Advanced Metering Infrastructure System” (the “RFP”), a copy of which is on file in the Town Clerk’s Office and incorporated herein by reference, seeking proposals from vendors to replace the Town’s outdated water meters with an advanced metering infrastructure system.

B. The Vendor responded to the RFP by submitting a proposal (the “Proposal”), attached hereto as Exhibit A and incorporated herein by reference.

C. The Town desires to enter into an agreement with the Vendor to perform a system-wide conversion of the Town’s current water meters to an advanced metering infrastructure (AMI) system and to provide a fully functional, standards-compliant AMI solution, including full-service training, maintenance, and support (the “Services”).

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I – SCOPE OF WORK: The Vendor shall provide the Services set forth herein and in the Proposal. The Vendor shall (A) provide the Services required by this Contract; (B) perform the Services in a professional and workmanlike manner and to the reasonable satisfaction of the Town through its contractors and under the direction and supervision of the Public Works Director, or his properly authorized agents, and strictly pursuant to and in conformity with industry standards, with the plans and specifications prepared by the Vendor for the Town, and with such written modifications of the same and other documents that the Town may make through the Utilities Director or his properly authorized agents, as provided herein; and (C) be responsible for the acts and omissions of its employees, agents, and other persons performing any of the Services under a contract with the Vendor. Prior to commencing the Services, the Vendor shall tour the project site, become familiar with existing conditions, and notify the Town of any constraints associated with the project site.

ARTICLE II – CONTRACT DOCUMENTS: The RFP, Notice to Respondents, and Addenda, if any, along with the Vendor’s Proposal, and Certificate of Insurance, and plans, standards, specifications, and details, and amendments to this Contract, if any, are by this reference made a part of this Contract to the same extent as if set forth herein in.

ARTICLE III – TIME OF COMPLETION: Vendor shall complete the Services on or before May 31, 2026.

ARTICLE IV – COMPENSATION: The Town shall pay the Vendor an amount not to exceed \$187,160 for the Services at the rates in the pricing schedules included in the Proposal. Retention shall be in accordance with Ariz. Rev. Stat. § 34-221.

ARTICLE V – CONFLICT OF INTEREST: This Contract is subject to the provisions of Ariz. Rev. Stat. § 38-511. The Town may cancel this Contract without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Contract on behalf of the Town or any of its departments or agencies is, at any time while this Contract or any extension of this Contract is in effect, an employee of any other party to this Contract in any capacity or a consultant to any other party of this Contract with respect to the subject matter of this Contract. In the event of the foregoing, the Town elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting, or creating this Contract on behalf of the Town from any other party to this Contract arising as a result of this Contract.

ARTICLE VI – AMBIGUITY: This Contract is the result of negotiations by and between the Parties. Although drafted by the Town, it is the result of negotiations between the Parties. Therefore, any ambiguity in this Contract is not to be construed against either Party.

ARTICLE VII – NONDISCRIMINATION: The Vendor, after award and during its performance of this Contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability, or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Vendor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, the Americans With Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213), and all applicable federal regulations under the Act, and Arizona Governor Executive Orders 99-4, 2000-4, and 2009-09, as amended.

ARTICLE VIII – INDEPENDENT CONTRACTOR STATUS: It is clearly understood that each Party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one Party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Vendor acknowledges and agrees that the Services provided under this Contract are being provided as an independent contractor, not as an employee or agent of the Town. The Vendor, its employees, and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of the Vendor, its employees, or subcontractors. The Vendor, and not the Town, shall determine the time of its performance of the Services provided under this Contract so long as the Vendor meets the requirements of its agreed Scope of Work as set forth in Article I. The Vendor further acknowledges and agrees that the payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing to any governmental entity whatsoever arising from this Contract is the sole responsibility of the Vendor. The Vendor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. The Vendor shall not hold itself out or claim to be an officer or employee of the Town by reason thereof, or make any claim, demand, or

application to or for any right or privilege applicable to any officer or employee of the Town. The Town and the Vendor do not intend to, nor will they, combine business operations under this Contract.

ARTICLE IX – TOWN FEES: Prior to final payment to the Vendor, the Town shall deduct therefrom any and all unpaid privilege, license, and other taxes, fees, and any and all other unpaid moneys due the Town from the Vendor and shall apply those moneys to the appropriate account. The Vendor shall provide to the Town any information necessary to determine the total amount(s) due.

ARTICLE X – OTHER WORK IN PROJECT AREA: The Town, any other vendors—whether under contract with the Town, a third party, or utilities—may work within the project area while this Contract is in progress. The Vendor herein acknowledges that delays and disruptions may, and in all likelihood, will occur due to other work in the project area. The Vendor's bid shall be deemed to have recognized and included costs arising from and associated with other work in the project area disclosed by the Contract Documents or which would be apparent to an experienced vendor exercising due diligence during inspection of the Contract Documents, the question-and-answer session in the pre-bid process, or during site inspection. No payment will be made for any delays or disruptions in the work schedule that are wholly attributable to the Vendor, its agents, employees, or any of the Vendor's subcontractors. In the event that the Vendor encounters delay or disruption in the project schedule due to factors not wholly attributable to the Vendor or within the Vendor's control, the Vendor may submit a timely request to the Town for Contract amendment, and upon mutual, written agreement thereof, the Parties may extend the term of this Contract. Failure to submit a timely request for Contract amendment shall be deemed a waiver of any entitlement to additional compensation.

ARTICLE XI – RIGHT TO ASSURANCE: If the Town, in good faith, has reason to believe that the Vendor does not intend to or is unable to perform or continue performing under this Contract, the Utilities Director may demand in writing that the Vendor give a written assurance of intent to perform. Failure by the Vendor to provide written assurance within the number of days specified in the demand may, at the Town's option, be the basis for terminating this Contract.

ARTICLE XII – TERMINATION FOR CONVENIENCE: The Town reserves the right to terminate this 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 of termination, the Vendor shall cease all work as directed in the notice, notify all subcontractors of the effective date of termination, and minimize all further costs to the Town. In the event of termination under this Article XII, all documents, data, and reports prepared by the Vendor under this Contract shall become the property of and be delivered to the Town upon demand. The Vendor shall be entitled to receive just and equitable compensation for work completed and materials accepted before the effective date of the termination.

ARTICLE XI – MISCELLANEOUS:

A. The Parties expressly covenant and agree that in the event of a dispute arising from this Contract, each of the Parties waives any right to a trial by jury. In the event of litigation, the Parties hereby agree to submit to a trial before the Court. The Vendor further agrees to include this provision in all subcontracts relating to the Services provided herein.

B. The Parties expressly covenant and agree that in the event of litigation arising from this Contract, neither party shall be entitled to an award of attorney fees, either pursuant to this Contract, pursuant to Ariz. Rev. Stat. § 12-341.01 (A) and (B), or pursuant to any other state or federal statute, court rule, case law, or common law. The Vendor further agrees to include this provision in all subcontracts relating to the Services provided herein.

C. In the event of default, neither Party shall be liable for incidental, special, or consequential damages.

D. Any notices to be given by either Party to the other must be in writing, and personally delivered or mailed by prepaid postage, at the following addresses:

If to the Town: Town of Jerome
600 Clark Street
Jerome, AZ 86331
Attn: Public Works Director

With copy to: Gust Rosenfeld P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: John Gaylord

If to Vendor: Metron Farnier, LLC
5665 Airport Blvd
Boulder, CO 80301
Attn: Legal Notice

E. This Contract is non-assignable by the Vendor unless by subcontract, as approved in advance by the Town.

F. All invoices shall be emailed to b.klein@jerome.az.gov.

G. This Contract shall be construed under the laws of the State of Arizona.

H. This Contract represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may be amended only by a written instrument signed by both Parties. Written and signed amendments shall automatically become part of this Contract, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

I. In the event any provision of this Contract shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the Parties. One or more waivers by either Party of any provision, term, condition, or covenant shall not be construed by the other Party as a waiver of a subsequent breach of the same by the other Party.

J. INDEMNIFICATION: To the fullest extent permitted by law, the Vendor shall indemnify, defend, and hold harmless the Town and each council member, officer, employee, or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for,

from, and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees, court costs, and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes, or omissions in connection with the work or services of the Vendor, its officers, employees, agents, or any tier of subcontractor in the performance of this Contract. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of this indemnity provision.

K. No oral order, objection, claim, or notice by any Party to the other shall affect or modify any of the terms or obligations contained in this Contract, and none of the provisions of this Contract shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modification shall be introduced in any proceeding.

L. INSURANCE: Vendor and/or subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, employees, or subcontractors.

1. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

2. The Town in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this Contract by the Vendor, its agents, representatives, employees, or subcontractors. The Vendor is free to purchase such additional insurance as may be determined necessary.

3. Additional Insurance Requirements. The policies shall include, or be endorsed to include, the following provisions:

a) On insurance policies where the Town is named as an additional insured, the Town shall be an additional insured to the full limits of liability purchased by the Vendor, even if those limits of liability are in excess of those required by this Contract.

Additional Insured:	Town of Jerome
	600 Clark Street
	Jerome AZ 86331

b) The Vendor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

4. Notice of Cancellation. With the exception of a 10-day notice of cancellation for non-payment of premium, the Vendor shall provide at least 30 days prior written notice to the Town before insurance required herein expires, is canceled, or is materially changed.

5. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the Town's Risk Management Division.

6. Verification of Coverage.

a) The Vendor shall furnish the Town with certificates of insurance (in ACORD form or an equivalent form approved by the Town) as required by this Contract. The certificates for each insurance policy must be signed by a person authorized by the insurer to bind coverage on its behalf.

b) All certificates and any required endorsements are to be received and approved by the Town before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of this Contract. Failure to maintain the insurance policies required by this Contract, or to provide evidence of renewal, constitutes a material breach of this Contract.

c) All certificates required by this Contract shall be emailed directly to b.klein@jerome.az.gov. The Town contract number and project description shall be noted on the certificate of insurance. The Town reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. Any renewal of insurance certificates with endorsements must be emailed to the above email address at least two weeks prior to expiration.

7. Insurance Limit Requirements. The Vendor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a following form basis.

a) Commercial General Liability – Occurrence Form:

1) Policy shall include bodily injury, property damage, personal injury, and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate (if applicable)	\$1,000,000
Personal and Advertising Injury (if applicable)	\$1,000,000
Each Occurrence	\$1,000,000
Fire Legal Liability (Damage to Rented Premises) (if applicable)	\$100,000

2) The policy shall be endorsed to include the following additional insured language: "The Town of Jerome shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of, the Vendor."

b) Business Automobile Liability: Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$ 1,000,000
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1) The policy shall be endorsed to include the following additional insured language: "The Town of Jerome shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Vendor."

c) Workers' Compensation and Employer's Liability:

Workers' Compensation Employer's Liability	Statutory
Each Accident	\$ 1,000,000
Disease – Each Employee	\$ 1,000,000
Disease – Policy Limit	\$ 1,000,000

1) Policy shall contain a waiver of subrogation against the Town for losses arising from work performed by or on behalf of the Vendor.

8. All insurance required pursuant to this Contract must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in Ariz. Rev. Stat. § 20-217, a copy of which certificate is to be attached to each applicable bond or binder.

9. Prior to commencing work under this Contract, the Vendor shall provide Town with evidence that it is either a "self-insured employer" or a "carrier insured employer" for Workers' Compensation as required by Ariz. Rev. Stat. § 23-901 *et seq.*, or that it employs no persons subject to the requirement for such coverage.

M. CONTRACTOR IMMIGRATION WARRANTY:

1. The Vendor understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug-Free Workplace Act of 1989 to it. The following is only applicable to construction contracts:

a) The Vendor must also comply with Ariz. Rev. Stat. § 34-301, "Employment of Aliens on Utilities Prohibited", and Ariz. Rev. Stat. § 34-302, as amended, "Residence Requirements for Employees."

2. Under the provisions of Ariz. Rev. Stat. § 41-4401, the Vendor hereby warrants to the Town that the Vendor and each of its subcontractors will comply with and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and Ariz. Rev. Stat. § 23-214(A) (the "Contractor Immigration Warranty").

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

4. The Town retains the legal right to inspect the papers of any of the Vendor's or its subcontractors' employees who work on this Contract to ensure that the Vendor or its subcontractor is complying with the Contractor Immigration Warranty. The Vendor agrees to assist the Town with any such inspections.

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

6. Neither the Vendor nor any subcontractor thereof shall be deemed to have materially breached the Contractor Immigration Warranty if the Vendor or subcontractor establishes that it has complied with employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by Ariz. Rev. Stat. § 23-214(A).

7. The provisions of this Article must be included in any contract the Vendor enters into with any and all of its subcontractors who furnish labor, time, or effort under this Contract or any subcontract, including but not limited to construction or maintenance of any structure, building, or transportation facility, or improvement to real property.

N. ISRAEL: To the extent applicable under Ariz. Rev. Stat. § 35-393 through § 35-393.03, the Parties hereby certify that they are not currently engaged in, and agree to not engage in for the duration of this Agreement, a "boycott" of goods or services from Israel, as that term is defined in Ariz. Rev. Stat. § 35-393.

O. FORCED LABOR OF ETHNIC UYGHURS CERTIFICATION:

1. To the extent applicable under Ariz. Rev. Stat. § 35- 394, the Vendor certifies that it does not currently, and agrees that it will not, for the duration of this Contract, use:

- a) The forced labor of ethnic Uyghurs in the People's Republic of China
- b) Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
- c) Any vendor, subcontractor, or supplier that uses forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

2. If the Vendor becomes aware during the term of this Contract that the company is not in compliance with the written certification, the Vendor shall notify the Town within five business days after becoming aware of the noncompliance. If the Vendor fails to provide a written certification that it has remedied the noncompliance within 180 days after that, this Contract shall terminate unless the termination date of this Contract occurs before the end of the remedy, in which case this Contract terminates on its termination date.

P. Contracting with small and minority vendors, women's business enterprises, and labor surplus area vendors:

1. The Company will take all necessary affirmative steps to ensure that minority vendors, women's business enterprises, and labor surplus area vendors are used when possible.

2. Affirmative steps shall include:

a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists

b) Assuring that small and minority businesses, and women's business enterprises, are solicited whenever they are potential sources.

c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

e) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Q. In the event of a discrepancy between this Contract and other documents incorporated into this Contract, this Contract shall control over such other incorporated documents.

R. NON-AVAILABILITY OF FUNDS: Fulfillment of the obligation of the Town under this Contract is conditioned upon the availability of funds appropriated or allocated for the performance of such obligations. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the Town at the end of the period for which the funds are available. No liability shall accrue to the Town in the event this provision is exercised, and the Town shall not be obligated or liable for any future payments as a result of termination under this paragraph.

(SIGNATURES FOLLOW)

IN WITNESS WHEREOF, the Parties have caused this document to be executed as of the Effective Date.

“Town”

TOWN OF JEROME,
an Arizona municipal corporation

“Vendor”

METRON FARNIER, LLC
a Colorado limited liability company

Christina “Alex” Barber, Mayor

Matt Kosorok, VP Enterprise Solutions

ATTEST:

Brett Klein, Town Manager/Town Clerk

APPROVED AS TO FORM:

John A. Gaylord, Town Attorney

EXHIBIT A
TO
GENERAL SERVICES CONTRACT
BETWEEN
THE TOWN OF JEROME
AND
METRON FARNIER, LLC

[Vendor's Proposal]

See the following pages.