



## ARAPAHOE COUNTY

# WAIVER PER PURCHASING POLICIES

WAIVER OF SOLICITATION ☐      WAIVER OF QUOTE ☐  
SELECT SOURCE ☒      FOR INFORMATION ONLY ☐

DESCRIPTION OF PROJECT: C15-002 Iliff Operational Improvements – Privacy Fence Construction

NAME OF THE VENDOR: Custom Fence & Supply, Inc

JUSTIFICATION: As part of the Iliff Avenue Operational Project, Windstream Condominium Home Owners Association (Windstream HOA) exchanged Right-of-Way acquisition for a new privacy fence along the north property line between the residence and the newly constructed Iliff Avenue corridor.

As part of the negotiations the Windstream HOA requested and were granted a proprietary privacy fence that is only supplied and installed by one fencing contractor in Colorado. Because this was part of the negotiations the Project Management Team solicited a quote from Custom Fence & Supply, Inc and performed cost comparisons to ensure the quote received was in-line with other comparable fence products.

It should be noted that this privacy fence is being constructed on Windstream HOA property and not on County owned property and that Arapahoe County will not own nor maintain this privacy fence upon completion. This project is estimated to cost \$410,000.

Public Works and Development (PWD) is also considering replacing the 680 feet of double-sided wood fence that is located within the right-of-way along Huntington Estates with this product due to cost and quality. The selection of this style of fence will be made in coordination with the HOA. The preliminary cost estimate for this work is \$243,400.00.

This request includes the cost to construct the Huntington Estates fence in the amount of \$270,000 which adds \$26,600 of contingency to the estimate. This amount matches the amount communicated to the HOA that the County would be willing to pay for the existing wood fence replacement. The contingency allows for room in case actual costs come in slightly higher than the estimate.

### PRICE:

-Cost Estimate: \$680,000.00

Annual Maintenance: \$0

FIXED ASSET Yes ☐ No ☒

FIXED ASSET #      Private property

COST CENTER # 4245301502 G/L # 54367

IO #

James Beall, JKB, 720-325-9184

June 10, 2024

Requestor Name, Signature & Telephone Number

Date

Bryan Weimer

Digitally signed by Bryan  
Weimer  
Date: 2024.06.13 14:12:23  
+06'00'

Elected Official/Department Head

Date

Nancy Allen  
Purchasing Manager (not to exceed \$100,000)

6/14/2024

Date

Comments:

Waiver approved, BOCC Reso #24077 Requestor to proceed with PO

Yes ☐ No ☐

Requestor to schedule BOCC Drop In & Create Board Summary Report

Yes ☒

Todd Weaver  
Todd Weaver, Director of Finance

6/14/2024

Date

Came Warren-Guyler  
BOCC, Chair

06/27/2024

Date

**Per BOCC Resolution #24077 of March 12, 2024, Purchasing Manager has authorization for sole approval up to \$100,000 plus exemptions to Contract Extensions**

## EXCLUSIVE TERRITORY AGREEMENT FOR STONETREE PRODUCTS

### Parties

This Exclusive Territory Agreement is entered into this 27 day of MARCH, 2007, between **ADVANCED FORMING TECHNOLOGIES, LLC** (the "Licensor") a Utah Limited Liability Company, and **CUSTOM FENCE AND SUPPLY, INC.** (the "Licensee"), a Corporation organized and existing in the State of Colorado.

### Recitals

- A. The Licensor owns or has the exclusive rights to certain Letters Patent and/or applications for Letters Patent relating to the design, development, manufacture, installation, and operation of concrete wall panels("the StoneTree™ Wall Forming System" or "StoneTree™ System").
- B. The Licensor owns and or has the exclusive right to license the use, within a given territory, the trademark and service mark "StoneTree", whose uniqueness and value are acknowledged by the Licensee.
- C. The Licensor owns the exclusive right to license the use, within a given territory, certain presently existing, specialized, novel and unique technical information, specifications, quality control techniques, test methods, practices, knowledge, know-how, negative know-how, skills, experience, and other proprietary information (the "Know-How") related to the design, development, manufacture, installation, and operation of concrete wall panels, including the StoneTree System, all of which Licensor has or will furnish to Licensee pursuant to one or more License Agreements.
- D. The Licensee has been or will be licensed by Licensor for the use of the StoneTree System, within the defined Territory pursuant to one or more License Agreements entered into or to be entered into by the Licensor and Licensee and further described herein.
- E. Licensee desires to secure from Licensor, and Licensor desires to grant to Licensee, exclusive territory rights for the use of the StoneTree System within the particular territory as set forth hereinafter.

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## Terms of Agreement


### 1. Exclusive Territory Rights

Licensor hereby grants to the Licensee for the term as set forth herein, the personal, indivisible, and nontransferable, exclusive territory rights ("Exclusive Territory Rights or Exclusive Territory") for the use of the StoneTree System, for the use the Patents, for the use of the Know-How, and for the use of the StoneTree mark in the Territory, defined as set forth in Paragraph 2 below.

### 2. Territory Description

The Exclusive Territory shall encompass no more and no less than the following:

**Territory Description** Exclusive Territory consists of the Colorado Counties of Adams, Arapahoe, Boulder, Clear Creek, Gilpin, Jefferson, Larimer and Weld. In addition to the aforementioned counties, the following counties of Elbert, Douglas, Teller, El Paso, shall be included in the Exclusive Territory for a limited time of three years from the date of this agreement. After the expiration of the three year period, these counties shall not be included in the Exclusive Territory unless agreed otherwise in writing with the parties to this agreement. Lessor/Licensee shall have an option and first right to acquire any additional Colorado Counties not included in the Exclusive Territory, including, without limitation, Elbert, Douglas, Teller and El Paso Counties following the expiration of the above described three year period.



### 3. Licensor's Obligations

The Licensor shall take such actions as in its sole judgment are appropriate to protect the Exclusive Territory from any other licensee of StoneTree Products.

### 4. Consideration and Related Licensee Duties

4.1 Licensee shall pre-pay to Licensor an annual fee (the "Exclusive Territory Fee") in the amount of \$5,000.00 (Five Thousand Dollars and no/100). The first annual license fee has been paid pursuant to one or more License Agreements entered into by the Licensor and Licensee. Subsequent Exclusive Territory Fee(s) shall be prepaid on or before each anniversary of this Agreement as a condition for maintaining the Exclusive Territory Rights pursuant to this Agreement. For each additional StoneTree forming system purchased and licensed by Licensee for use in the same Territory, one annual renewal fee pursuant to this Agreement shall be waived. All payment to Licensor shall be made in United States dollars, unless otherwise agreed to in writing by Licensor.

4.2 Licensee shall not use the StoneTree System outside the Licensed Territory without the express written permission of Licensor.

4.3 Licensee shall adhere to the terms and conditions of all written agreements, including, but not limited to the one or more License Agreements entered into by the Licensor and