



PIMA COUNTY REQUEST FOR OFFER

Pursuant to
RFQ
Procurement Process

SOLICITATION #: RFQ-PO-2100014

TITLE: Dental Equipment Maintenance, Repair, & Parts

ISSUED DATE: 09/25/2020

SOLICITATION: Pima County (COUNTY) is soliciting quotes from Offerors qualified, responsible and willing to provide Dental Equipment Maintenance, Repair, & Parts in compliance with the attached *Offer Agreement*.

INSTRUCTIONS REGARDING PREPARATION and SUBMISSION OF OFFER:

The Offerors to whom this request is transmitted are requested to complete, execute and submit the attached *Offer Agreement (13 pages)*. Failure to complete and provide the information and documents as requested may result in a determination that the offer is non-responsive and cannot be evaluated or used. The information, documents or actions to be performed by the Contractor are:

Complete the following sections of the attached Offer Agreement:

- Minimum Qualifications
- Unit Prices
- Master Price List (if applicable)
- Discount %
- Small Business Enterprise (SBE) Certification (if applicable)
- Offer Certification information and signature

All prices and notations must be printed in ink or typewritten. **No erasures are permitted.** Errors may be crossed out and corrections printed in ink or typewritten adjacent to error and shall be initialed in ink by person signing the offer. Typewritten responses are **preferred**.

All offers shall if appropriate indicate the registered trade name, stock number, and packaging of the items included in the offer.

Failure to perform appropriate research, discovery, examine any drawings, specifications, and instructions will be at the respondent's sole risk. Modification of the attached Offer Agreement in areas other than directed above may render the document unusable by County.

Insurance certification documents will be required from the winning Offeror upon award.

VENDOR/OFFEROR RECORD MAINTENANCE:

By submitting a response to this solicitation, Offeror agrees to establish and maintain a complete Pima County Vendor record, including the provision of a properly completed and executed "Request for Taxpayer Identification Number and Certification" document (Form W-9), within ten (10) calendar days of the solicitation due date. Offeror also agrees to update the information within ten (10) calendar days of any change in that information and prior to the submission of any invoice or request for payment. The preferred method for creating or updating this record is via the Internet utilizing the Pima County Vendor Self Service (VSS). The registration requires that Offeror establish and maintain email functionality. In addition to providing the means for an Offeror to create and maintain its Vendor record, VSS also provides for email notice to Offeror regarding solicitations that County publishes for commodities of interest as defined by the Vendor record. Internet links for Vendor Registration are located at the Procurement Internet page: <http://www.pima.gov/procure/venreg.htm>.

SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE:

Any contract funded in any amount with federal funds is not eligible for this preference.

For those bids that do not exceed \$500,000 per contract year, a 5% bid preference will be given to firms submitting SBE Certificates issued by the City of Tucson WITH THEIR BID; said certification is subject to verification and acceptance by Pima County. If the certification is accepted by Pima County, the bid will be evaluated at 95% of the bid amount to determine the low and responsive bid. If an award of contract is made, the contract will be formed utilizing the Unit Prices, or Lump Sum, as bid.

To be eligible for the price preference, SBE firms must include with their bid documents a copy of their current certification certificate which may be acquired from the City of Tucson; Department of Procurement, (520) 837-4000, 225 W Alameda, 6th Floor, Tucson, AZ 85726-7210. Their SBE website, which typically includes an SBE Application Form and a Directory listing firms holding SBE Certification, is located at: http://www.tucsonprocurement.com/bidders_SBE.aspx. The process of acquiring SBE Certification may take several weeks. Please contact the Pima County Business Enterprise Program Coordinator at **(520) 724-3807** for assistance or further information.

Questions may be submitted to Vanessa Mendoza, email: vanessa.mendoza@pima.gov, Fax: 520.791.6504

SUBMIT THE REQUESTED DOCUMENTS & INFORMATION AT OR BEFORE OCTOBER 9, 10:00 A.M. LOCAL TUCSON, AZ TIME TO:

Pima County Procurement Department; Attention: Vanessa Mendoza via E-mail at: vanessa.mendoza@pima.gov

OFFER AGREEMENT

1. INTENT:

This document is intended to establish a Master Agreement (“MA”) to provide Pima County (“County”) with Dental Maintenance, Repair, & Parts on an “as required basis” by issue of Delivery Order (“DO”) or Delivery Order Maximo (“DOM”).

As defined by the Pima County Standard Terms and Conditions included herein, this contract is non-exclusive and County may terminate it for any reason without penalty or cost.

All Goods and Services that Contractor offers or provides pursuant to the contract will conform to the requirements defined by or referred to by the solicitation documents including *Solicitation Amendments*, *Instructions to Offerors*, *Standard Terms and Conditions*, and this *Offer Agreement*, all of which are incorporated herein.

This document, including all attachments and documents incorporated by reference, constitutes the entire contract between the parties pertaining to the subject matter hereof, and merges all prior or contemporaneous agreements and understandings, oral or written, herein.

2. CONTRACT TERM, RENEWALS, EXTENSIONS & REVISIONS:

The initial term of the Master Agreement will be for a one (1) year period and include four (4) one-year renewal options that the parties may exercise upon written agreement as follows:

Contract extensions, renewals, or revisions will occur through the issuance by County to Contractor of a revised Master Agreement document setting forth the requested changes. Failure by Contractor to object in writing to the proposed revisions, terms, conditions, scope modifications and/or specifications within ten (10) calendar days of issuance by County will signify acceptance of all such changes by Contractor and the revision will be binding upon the parties, effective on the date of issuance.

3. CONTRACTOR MINIMUM QUALIFICATIONS:

The Contractor certifies that it is competent, willing and responsible for performing the services or providing the products in accordance with all requirements of the solicitation and this contract. Contractor certifies that it possesses all licenses required by applicable Agencies to satisfy the requirements of this contract.

MQ Line#	MINIMUM QUALIFICATIONS	CHECK <input checked="" type="checkbox"/> appropriate response certifying agreement with the requirement.
1	CONTRACTOR must have three (3) years' experience providing repair and maintenance services on dental equipment including current year. <i>Attach the copy of business license/documentation with the submission of the bid.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

4. PRODUCT OR SERVICE SPECIFICATIONS & SCOPE:

- 4.1 CONTRACTOR must provide Bi-Annual Preventative Maintenance and Repair to the following Headpieces (HP): High-speed, Hygiene Prophylaxis, and Slow-speed Motor Kits.
- 4.2 CONTRACTOR must provide Annual Preventative Maintenance including but not limited to Gendex 765DC Calibration, System and Function Checks, Maintenance Procedures, Amalgam Maintenance, Filter Replacements and Disposal of equipment as applicable.
- 4.3 CONTRACTOR must provide Annual Preventative Maintenance to Dental Chair, Scaler, Cleaner, and Autoclave. Preventative Maintenance for these specific items needs to be completed in one (1) trip.
- 4.4 CONTRACTOR must include any local/out-of-state travel expenses, trip charges, travel time and labor rates in Bi-Annual and Annual Preventative Maintenance cost.
- 4.5 CONTRACTOR must provide a quote for any Unexpected/Emergency Maintenance, Repair, and Part needs. The quote shall be reviewed and approved by Pima County Behavioral Health Authorized Personnel, prior to execution of services. Any local/out-of-state travel expenses, trip charges, travel time, and labor rates must be included in Unexpected/Emergency Maintenance costs.

5. OFFER ACCEPTANCE AND ORDER RELEASES:

County will accept offer and execute this contract by issue of a MA (recurring requirements) to be effective on the document's date of issue without further action by either party. The MA will document the term of the agreement.

Pursuant to the executed MA, County departments requiring the goods or services defined herein will issue a DO or DOM to the Contractor. County will furnish the DO or DOM to Contractor via facsimile, e-mail or telephone. **If County gives the order verbally, the County Department issuing the order will transmit a confirming order document to Contractor within five (5) workdays of the date it gives the verbal order.**

Contractor must not supply materials or services that are not specified on the MA and are not documented or authorized by a DO or DOM at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County DO or DOM.

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this contract. In particular, Contractor will not provide goods or services in excess of the executed contract items, item quantity, item amount, or contract amount without prior written authorization by contract revision that County has properly executed and issued. Any items Contractor provides in excess of those stated in the contract are at Contractor's own risk. Contractor will decline verbal requests to deliver items in excess of the contract and will report all such requests in writing to the County Procurement Department within one (1) workday of the request. The report must include the name of the requesting individual and the nature of the request.

6. ACCEPTANCE OF GOODS AND SERVICES:

The County Department designated on the issued order DO or DOM will accept goods and services only in accordance with this contract. Such acceptance is a prerequisite to the commencement of payment terms.

7. COMPENSATION & PAYMENT:

The MA issued to accept Contractor's offer will define the not-to-exceed amount of the contract.

Contractor's unit prices must include all incidentals and associated costs required to comply with and satisfy all requirements of this solicitation, which includes the *Instructions to Offerors*, *Standard Terms and Conditions*, and Offer Agreement. County will make no payments for items not in the contract.

Quantities in this solicitation are estimates only. County reserves the right to increase or decrease quantities and amounts. County makes no guarantee regarding actual orders for items or quantities during the term of the agreement. County is not responsible for Contractor inventory or order commitment.

UNIT PRICES (Net 30-day Payment Terms)

ITEM #	ITEM NAME	ESTIMATED ANNUAL USAGE QUANTITY	UOM	UNIT PRICE \$	EXTENDED AMOUNT \$
1	High-Speed Headpieces	2	Year		
2	Hygiene Proply	2	Year		
3	Slow-Speed Motor Kits	2	Year		
4	Annual Gendex 765DC Calibration, system and function checks, and Maintenance Procedures.	1	Year		
5	Preventative Maintenance for Chair, Scaler, Cleaner, and Autoclave	1	Year		
6	Hourly Rate for Preventative Maintenance (not identified)	1	Hour		
7	Hourly Rate for Unexpected/Emergency Maintenance and Repair	1	Hour		
FOB Destination/Unloaded; include cost of freight in unit price.					
Although County will pay taxes IF applicable, do NOT include sales tax in unit price.				TOTAL BID	

Unless the parties otherwise agree in writing, all pricing will be *F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destination")*. Contractor will deliver and unload products or services at the destination(s) that the delivery section of this contract or accepted *Order* indicates. The offered Unit Price must include all freight costs.

Although an order may not fully define State and City sales tax, County will pay such taxes as are DIRECTLY applicable to County and Contractor invoices such taxes as a separate line item. Contractor must not include such taxes in the item unit price.

Price Warranty. Contractor will give County the benefit of any price reduction before actual time of shipment.

Price Escalation. All unit prices include compensation for Contractor to implement and actively conduct cost and price control activities. Pricing will remain firm during the initial year of the contract term after which the parties may consider price increases no more frequently than once per year. Contractor will submit a written request to County that includes supporting documents justifying requested increases at least ninety (90) days prior to the renewal date. Contractor will provide evidence, cite sources, demonstrate specific conditions and document how those conditions affect the cost of its performance, and identify specific efforts Contractor has taken to control and reduce those and other costs to avoid the need to increase prices. County will review proposed pricing and determine if it is allowable, fair and reasonable, and in the best interest of County to accept the proposal. County reserves the right to continue, accept or reject the price proposal, or terminate and re-solicit the contract.

This section is for items that Contractor did not list or price above but are within the defined scope of this contract. Contractor may provide these items under this contract. Contractor will submit Master Price List (MPL) documents, compact disc (CD) or USB flash drive and file names or identify website address, identifying all other items offered pursuant to this contract. The MPL or website address specifically designed for the County must include the vendor's/manufacturer's or retail price list and the discount percentage off utilized to get to include Discounted Unit Price being offered to the County i.e. $\text{Manufacturer's List Price} - (\text{List price} \times \text{Discount \%}) = \text{Discounted Unit Price}$. The resulting Unit Prices must be of similar discount off List Prices for those items specifically defined above. Item Unit Prices above will govern in case of conflict with the Master Price List.

List MPL Document by Title, MPL Media & Filenames or MPL Internet Address and Title(s)	Qty of Pages	Dated	Percentage Discount (Mfr List Price – (List price x Discount %) = Discounted Unit Price

The parties may negotiate and establish unit pricing in writing under the contract for items included in the scope of the contract that does not have previously defined unit pricing.

Standard Payment Term Net (30) is effective from the date of valid invoice document and does not commence until the later of 1) the receiving County Department receives goods or services into County's payment system or 2) County Financial Operations receives and verifies Contractor's invoice.

OPTIONAL EARLY PAYMENT DISCOUNT TERM: Pima County Administrative Procedure No. 22-35 Section 2.2.4 defines County's practice regarding discounts for early payment. Contractor offers the following discounts to those prices to be used for all orders issued pursuant to this contract. County will utilize the existing payment code that best matches that offered and does not exceed the offered discount percentage. Payment days cannot be less than ten (10) calendar days. Contractor will submit valid invoice document consistent with the associated PO, DO or DOM to County Finance Department at least seven (7) calendar days prior to the date on which the discounted payment is due. If desired, for any order issued pursuant with this contract, Contractor may offer early payment discounts that exceed this Early Payment Discount.

Optional Early Payment Discount Percent: _____ % if payment is tendered within _____ Days as indicated above.

Contractor will submit Request(s) for Payment or Invoices to the location and entity defined by County's DO or DOM document.

All Invoice documents will reference the County's DO or DOM number under which the services or products were ordered. **ALL** Invoice line items will utilize the item description, precise unit price and unit of measure defined by the County's order document. County may return invoices that include line items or unit prices that do not match those documented by the County's order to Contractor unprocessed for correction. **Contractor will not accept orders, or provide services or products that cumulatively exceed the contract amount.**

Contractor will provide detailed documentation in support of payment requests, which should be consistent with and not exceed County's DO or DOM document. Contractor will bill County within one (1) month after the date on which Contractor's right to payment accrues ("Payment Accrual Date"), which, unless this contract specifically provides otherwise, is the date Contractor delivers goods, performs services or incurs costs. Invoices must assign each billed amount to an appropriate line item of County's order and document each Payment Accrual Date. County may refuse to pay any amount that Contractor bills in which does not conform to County's DO or DOM document. County will refuse to pay any amount that Contractor bills more than six (6) months after the Payment Accrual Date, pursuant to A.R.S. § 11-622(C).

8. DELIVERY:

"On-Time" delivery is an essential part of the consideration that Contractor is to provide to County under the contract. Contractor will make delivery in accordance with the Instructions to Offerors, Standard Terms and Conditions and to the location(s) on the DO, or DOM document.

- CONTRACTOR to provide Preventative Maintenance Services within 72 hours of request.
Monday – Friday, 8:00 AM to 4:00 PM (excluding holidays, unless otherwise authorized by the department). Contractor to contact County by phone and/or email if deadline cannot be met. County will not provide payment for Overtime Hours.
- CONTRACTOR to provide Unexpected/Emergency Maintenance and Repair Services within 24 hours of request.
Monday-Friday, 8:00 AM to 4:00 PM (excluding holidays, unless otherwise authorized by the department). Contractor to contact County by phone and/or email if deadline cannot be met. County will not provide payment for Overtime Hours.
- CONTRACTOR must collaborate with Pima County Adult Detention Center (PCADC) authorized personnel to determine the best time to provide these services.

Contractor guarantees delivery of product or service within the timeframe indicated above. If necessary to satisfy the guaranteed delivery time, Contractor will utilize premium freight method at no additional cost to County.

9. TAXES, FEES, EXPENSES:

Pursuant to IRS Publication 510, County is exempt from federal excise taxes for goods. County is subject to State and City sales tax. County will pay no separate charges for delivery, drayage, express, parcel post, packing, insurance, license fees, permits, costs of bonds, surcharges, or bid preparation unless the contract expressly includes such charges and the solicitation documents itemizes them.

10. OTHER DOCUMENTS:

Contractor and County in entering into this contract have relied upon information provided or referenced by Pima County Solicitation No. RFQ-PO-2100014 including the Instructions to Offerors, Offer Agreement, Standard Terms and Conditions, Solicitation Amendments, Contractor's Bid Offer, documents submitted by Contractor or References to satisfy Minimum Qualifications and any other information and documents that Contractor has submitted in its response to County's Solicitation. The Contract incorporates these documents as though set forth in full herein, to the extent not inconsistent with the provisions of this contract.

11. INSURANCE:

The Insurance requirements herein are minimum requirements for this Contract and in no way limit, the indemnity covenants contained in this Contract. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Minimum Scope and Limits of Insurance:

Contractor shall procure and maintain, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. Pima County in no way warrants that the minimum insurance limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract. The Contractor is free to purchase additional insurance that required by the County. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the County's Insurance Requirements.

Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000 each accident.

Workers' Compensation (WC) and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.

Claim-Made Insurance Coverage - If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

Additional Insured: The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

Primary Insurance: The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation: Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the Pima County project or contract number and project description.

Verification of Coverage:

Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Pima County Procurement Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

Approval and Modifications:

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the

County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

12. PERFORMANCE BOND: N/A

13. ACKNOWLEDGEMENT of SOLICITATION AMENDMENT(S):

Contractor acknowledges that it incorporates the following solicitation amendment(s) in its offer and this contract:

Amendment #	Date	Amendment #	Date	Amendment #	Date

14. SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION:

Is your firm SBE-certified as defined by the solicitation "Instruction to Offerors" section? Yes No (Select one)

If 'Yes', have you included your certification document? Yes No (Select one)

NOTE: If you do not submit the SBE Certification document with your bid, County will not apply the SBE Preference.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

15. BID/OFFER CERTIFICATION:

CONTRACTOR LEGAL NAME: _____

BUSINESS ALSO KNOWN AS: _____

MAILING ADDRESS: _____

CITY/STATE/ZIP: _____

REMIT TO ADDRESS: _____

CITY/STATE/ZIP: _____

CONTACT PERSON NAME/TITLE: _____

PHONE: _____ **FAX:** _____

CONTACT PERSON EMAIL ADDRESS: _____

EMAIL ADDRESS FOR ORDERS & CONTRACTS: _____

CORPORATE HEADQUARTERS ADDRESS: _____

WEBSITE: _____

By signing and submitting these Offer Agreement documents, the undersigned certifies that they are legally authorized to represent and bind Contractor to legal agreements, that all information submitted is accurate and complete, that Contractor has reviewed the Pima County Procurement website for solicitation amendments and has incorporated all such amendments to its offer, that Contractor is qualified and willing to provide the items requested, and that Contractor will comply with all requirements of the solicitation. The Unit Pricing includes all costs incidental to the provision of the items in compliance with the above documents; no additional payment will be made. Conditional offers that modify the solicitation requirements may be deemed not 'responsive' and County may not evaluate them. Contractor's submission of a signed offer agreement shall constitute a firm offer and upon the issuance of a MA or PO document issued by the Pima County Procurement Director or authorized designee will form a binding contract that will require Contractor to provide the goods or services and materials described in this solicitation. The undersigned hereby offers to furnish the goods or services in compliance with all terms, conditions, specifications that the solicitation defines or references, which includes Pima County Standard Terms & Conditions, this Offer Agreement and other documents as listed in this Offer Agreement's "Other Documents" section.

SIGNATURE: _____ **DATE:** _____

PRINTED NAME & TITLE OF AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER

PHONE AND E-MAIL: _____

County Attorney Contract Approval "As to Form"

PIMA COUNTY STANDARD TERMS AND CONDITIONS

1. OPENING:

Pima County ("County") will publicly open responses on the date and at the location as stated in the *Invitation for Bid (IFB)* or *Request for Proposal (RFP)*. The County will read each respondent's name, and for responses to an IFB will also read the total bid amount. County will open proposals so as to avoid disclosure of the contents of any proposal to competing Offerors during the **evaluation** process. County invites all interested parties to attend the bid opening.

2. EVALUATION:

County will evaluate responses to determine which are most advantageous to County considering conformity to the specifications stated in the IFB, evaluation criteria stated in the RFP, and other factors, regardless of solicitation type.

If County makes an award, County will enter into an agreement with one or more Contractor(s) that submitted the lowest responsive bid(s) or highest scoring proposal that County determined responsible for providing the required goods or services. Unless otherwise specified on the IFB document, County will determine the low or lowest bids considering all items listed in the Unit Price Schedule.

County, at its sole discretion, reserves the following rights: 1) to waive informalities in the bid or bid procedure; 2) to reject the response of any persons or corporations that have previously defaulted on any contract with County or who have engaged in conduct that constitutes a cause for debarment or suspension as set forth in County Code Section 11.32; 3) to reject any and all responses; 4) to re-advertise for bids previously rejected; 5) to otherwise provide for the purchase of such equipment, supplies materials and services as may be required herein; 6) to award on the basis of price and other factors, including but not limited to such factors as delivery time, quality, uniformity of product, suitability for the intended task, and bidder's ability to supply; 7) to increase or decrease the item quantity or eliminate any item of this solicitation prior to the award. Pricing evaluations will be based on pre-tax pricing proposed by Contractor.

3. AWARD NOTICE:

County will post a *Notice of Recommendation for Award* for IFB or RFP on the Procurement website available for review by interested parties. The Procurement Department will maintain a tabulation of the bids or ranking of proposals.

4. AWARD:

Either the Procurement Director or the Board of Supervisors will make the contract award in accordance with the Pima County Procurement Code. County reserves the right to reject any or all proposals, bids or to waive irregularities and informalities in the best interest of County. Unless County expressly agrees otherwise, resulting contracts are not exclusive, they are for the sole convenience of County, and County reserves the right to obtain like goods or services from other sources.

5. WAIVER:

Each Offeror, by submission of a proposal, bid or proposal waives any and all claims for damages against County or its officers or employees when County exercises any of its reserved rights.

6. ACKNOWLEDGEMENT AND ACCEPTANCE:

If Contractor's terms of sale are inconsistent with the terms of the resultant contract, the terms herein will govern, unless County accepts Contractor's terms in writing. No oral agreement or understanding will in any way modify this contract or the terms and conditions herein. Contractor's acceptance, delivery or performance called for herein will constitute unqualified acceptance of the terms and conditions of the resultant contract.

7. INTERPRETATION and APPLICABLE LAW:

The laws of the State of Arizona govern the interpretation and construction of this Contract. If any of Contractors' terms or conditions is not in agreement with County's terms and conditions as set forth herein, County's will govern. This contract incorporates the complete agreement of the parties with respect to the subject matter of this contract. No oral agreement or other understanding will in any way modify the terms and conditions of this contract.

8. WARRANTY:

Contractor warrants goods or services to be satisfactory and free from defects.

9. QUANTITY:

Contractor will not exceed or reduce the quantity of goods ordered without **written** permission from County in the form of a properly executed Master Agreement ("MA"), Purchase Order ("PO"), Delivery Order ("DO"), or Delivery Order Maximo

("DOM") revision or amendment as the County's Procurement Code requires. All quantities are estimates and County provides no guarantee regarding actual usage.

10. PACKING:

Contractor will make no extra charges for packaging or packing material. Contractor is responsible for safe packaging conforming to carrier's requirements.

11. DELIVERY:

On-time delivery of goods and services is an essential part of the consideration that County will receive.

Contractor must provide a guaranteed delivery date, or interval period from order release date to delivery if the Price proposal document requires it. Upon receipt of notification of delivery delay, County at its sole option and at no cost to County may cancel the order or extend delivery times. Such extension of delivery times will not be valid unless an authorized representative of County extends it to Contractor in writing.

To mitigate or prevent damages from delayed delivery, County may require Contractor to deliver additional quantity utilizing express modes of transport, or overtime, all costs to be Contractor's responsibility. County reserves the right to cancel any delinquent order, procure from an alternate source, or refuse receipt of or return delayed deliveries, all at no cost to County. County reserves the right to cancel any order or refuse delivery upon default by Contractor concerning time, cost, or manner of delivery.

Contractor is not responsible for unforeseen delays caused by fires, strikes, acts of God, or other causes beyond Contractor's control, provided that Contractor provides County immediate notice of delay.

12. SPECIFICATION CHANGES:

County has the right to make changes in the specifications, services, or terms and conditions of an order. If such changes cause an increase or decrease in the amount due under an order or in time required for performance, County will make an acceptable adjustment and will modify the order in writing. No verbal agreement for adjustment is acceptable.

Nothing in this clause reduces Contractor's responsibility to proceed without delay in the delivery or performance of an order.

13. INSPECTION:

County may inspect or test all goods and services at place of manufacture, destination, or both. Contractor will hold goods failing to meet specifications of the order or contract at Contractor's risk and County may return such goods to Contractor with costs for transportation, unpacking, inspection, repacking, reshipping, restocking or other like expenses to be the responsibility of Contractor. In lieu of return of nonconforming supplies, County, at its sole discretion and without prejudice to County's rights, may waive any nonconformity, receive the delivery, and treat the defect(s) as a warranty item, but any waiver of any condition will not apply to subsequent shipments or deliveries.

14. SHIPPING TERMS:

Unless the contract states otherwise, delivery terms are to be F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destination") and Contractor is to include such terms in its Unit Price proposal.

15. PAYMENT TERMS:

Payment terms are net thirty (30) days, unless the contract specifies otherwise.

16. ACCEPTANCE OF MATERIALS AND SERVICES:

County will not execute an acceptance or authorize payment for any service, equipment or component prior to delivery and verification that the delivery meets all specification requirements.

17. RIGHTS AND REMEDIES OF COUNTY FOR DEFAULT:

In the event any item that Contractor furnishes in the performance of the contract should fail to conform to the specifications thereof, or to the sample that Contractor submitted, County may reject same, and it thereupon becomes the duty of Contractor to reclaim and remove the same, without expense to County, and immediately replace all such rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse immediately to do so, County has the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any monies due or that may become due to Contractor the difference between the price named in the MA or Purchase Order ("PO") and the actual cost to County.

In the event Contractor fails to make prompt delivery as specified of any item, the same conditions as to the rights of County to purchase in the open market and invoke the reimbursement condition above apply, except when delivery is delayed by fire, strike, freight embargo, or acts of god or of the government. In the event of cancellation of the MA, PO or associated orders, either in whole or in part, by reason of the default or breach by Contractor, Contractor will bear and pay for any loss or damage sustained by County in procuring any items which the Contractor agreed to supply. The rights and remedies of County provided above are not exclusive and are in addition to any other rights and remedies provided by law or under the contract.

18. FRAUD AND COLLUSION:

Each Contractor, by submission of a bid, certifies that no officer or employee of County or of any subdivision thereof: 1) has aided or assisted Contractor in securing or attempting to secure a contract to furnish labor, materials or supplies at a higher price than that proposed by any other Contractor; 2) has favored one Contractor over another by giving or withholding information or by willfully misleading the bidder in regard to the character of the material or supplies called for or the conditions under which the proposed work is to be done; 3) will knowingly accept materials or supplies of a quality inferior to those called for by any contract; 4) has any direct or indirect financial interest in the proposal or resulting contract. Additionally, during the conduct of business with County, Contractor will not knowingly certify, or induce others to certify, to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of material or supplies that has been actually received. If County finds at any time that Contractor has in presenting any proposal(s) colluded with any other party or parties for the purpose of preventing any other proposal being made, then County will terminate any contract so awarded and that person or entity will be liable for all damages that County sustains.

19. COOPERATIVE USE OF RESULTING CONTRACT:

As allowed by law, County has entered into cooperative procurement agreements that enable other Public Agencies to utilize procurement agreements that County has developed. Participating agencies may contact Contractor with requests to provide services and products pursuant to the pricing, terms and conditions defined by the County MA, or PO. Minor adjustments are allowed subject to agreement by both Contractor and Requesting Party to accommodate additional cost or other factors not present in the County's agreement and required to satisfy particular Public Agency code or functional requirements and within the intended scope of the solicitation and resulting contract. The parties to the cooperative procurement will negotiate and transact any such usage in accordance with State, County and other Public Agency procurement rules, regulations and requirements. Contractor will hold harmless County, its officers, employees, and agents from and against all liability, including without limitation payment and performance associated with such use. Contractor may view a list of agencies that are authorized to use County contracts at the Procurement Department Internet home page: <http://www.pima.gov/procure> by selecting the link titled *Authorized Use of County Contracts*.

20. PATENT INDEMNITY:

Contractor will indemnify, defend and hold County, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the MA, PO, and associated orders. County may require Contractor to furnish a bond or other indemnification to County against any and all loss, damage, costs, expenses, claims and liability for patent or copyright infringement.

21. INDEMNIFICATION:

Contractor will indemnify, defend, and hold harmless County, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by Contractor, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of the MA, PO or associated orders. Contractor warrants that all products and services provided under this contract are non-infringing. Contractor will indemnify, defend and hold County harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

22. UNFAIR COMPETITION AND OTHER LAWS:

Responses must comply with Arizona trade and commerce laws (Title 44 A.R.S.) and all other applicable County, State, and Federal laws and regulations.

23. COMPLIANCE WITH LAWS:

Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. In the event any services that Contractor provides under this contract require a license issued by the Arizona Registrar of Contractors (ROC), Contractor certifies that a Contractor licensed by ROC to perform those services in Arizona will provide such services. The laws and regulations of the State of Arizona govern the rights, performance and

disputes of and between the parties. Any action relating to this Contract must be filed and maintained in a court of the State of Arizona in Pima County.

Any changes in the governing laws, rules, and regulations during an agreement apply, but do not require an amendment or revisions.

24. ASSIGNMENT:

Contractor may not assign its rights to the contract, in whole or in part, without prior written approval of County. County may withhold approval at its sole discretion, provided that County will not unreasonably withhold such approval.

25. CANCELLATION FOR CONFLICT OF INTEREST:

This contract is subject to cancellation pursuant to A.R.S. §§38-506 and 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

26. NON-DISCRIMINATION:

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this contract as if set forth in full herein **including flow down of all provisions and requirements to any subcontractors**. During the performance of this contract, Contractor must 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.

27. NON-APPROPRIATION OF FUNDS:

County may cancel this contract pursuant to A.R.S. § 11-251(42) if for any reason the County Board of Supervisors does not appropriate funds for the stated purpose of maintaining the contract. In the event of such cancellation, County has no further obligation, other than payment for services or goods that County has already received.

28. PUBLIC RECORDS:

Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

The Contractor agrees to waive confidentiality of any price terms in the event of a contract award.

29. CUSTOM TOOLING, DOCUMENTATION AND TRANSITIONAL SUPPORT:

Costs to develop all tooling and documentation, such as and not limited to dies, molds, jigs, fixtures, artwork, film, patterns, digital files, work instructions, drawings, etc. necessary to provide the contracted services or products and unique to the services or products supplied to County are included in the agreed upon Unit Price unless the contract specifically states otherwise. Such tools and documentation are the property of County and will be marked, as is practical, as the "Property of Pima County" and County so requests, Contractor will deliver a copy of the tooling and documentation to County within twenty (20) days of acceptance by County of the first article sample, or not later than ten (10) days of termination of the contract associated with their development, without additional cost to County. Contractor also agrees to act in good faith to facilitate the transition of work to a subsequent Contractor if and as reasonably requested by County at no additional cost. Should exceptional circumstances be present that may justify an additional charge, Contractor may submit said justification and proposed cost and negotiate an agreement acceptable to both Contractor and County, but Contractor may not withhold any requested tooling, document or support as defined above that would delay the orderly, efficient and prompt transition of work. Should conduct by Contractor result in additional costs to County, Contractor will reimburse County for said actual and incremental costs provided that County has given Contractor reasonable time to respond to County's requests for support.

30. AMERICANS WITH DISABILITIES ACT:

Contractor will comply with all applicable provisions of the Americans with Disabilities Act (public law 101-336, 42 USC 12101-12213) and all applicable federal regulations under the act, including 28 CFR parts 35 and 36.

31. NON-EXCLUSIVE:

Contracts resulting from this solicitation are non-exclusive and are for the sole convenience of County, which reserves the right to obtain like goods and services from other sources for any reason.

32. PROTESTS:

An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award. Protests must be in accordance with the Pima County Procurement Code, Section 11.20.010.

33. TERMINATION:

County reserves the right to terminate any MA, PO, Delivery Order, DOM or award, in whole or in part, at any time, without penalty or recourse, when in the best interests of County. Upon receipt of written notice, Contractor will immediately cease all work as directed by the notice, notify all subcontractors of the effective date of termination and take appropriate actions to minimize further costs to County. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract become the property of County and Contractor must promptly deliver them to County. Contractor is entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

34. ORDER OF PRECEDENCE-CONFLICTING DOCUMENTS:

In the event of inconsistencies between contract documents, the following is the order of precedence, superior to subordinate, that will apply to resolve the inconsistency: MA, DO or DOM, PO, Offer Agreement or contract attached to a MA, PO, DO or DOM; these standard terms and conditions; any other solicitation documents.

35. INDEPENDENT CONTRACTOR:

The status of Contractor is that of an independent Contractor. Contractor and Contractor officer's agents or employees are not considered employees of County and are not entitled to receive any employment-related fringe benefits under the County Merit System. Contractor is responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and will indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such taxes. Contractor is solely responsible for its program development and operation.

36. BOOKS AND RECORDS:

Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Contractor will retain all records relating to this contract at least five (5) years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

37. COUNTERPARTS:

The parties may execute the MA or PO that County awards pursuant to this solicitation in any number of counterparts, and each counterpart is considered an original, and together such counterparts constitute one and the same instrument.

For the purposes of the MA and PO, the signed proposal of Contractor and the signed acceptance of County are each an original and together constitute a binding MA, if all other requirements for execution are present.

38. AUTHORITY TO CONTRACT:

Contractor warrants its right and power to enter into the MA or PO. If any court or administrative agency determines that County does not have authority to enter into the MA or PO, County is not liable to Contractor or any third party by reason of such determination or by reason of the MA or PO.

39. FULL AND COMPLETE PERFORMANCE:

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of the MA, PO, DO or DOM to be performed on the part of the other, or to take any action permitted as a result thereof, is not a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future.

The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.

40. SUBCONTRACTORS:

Contractor is fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts Contractor may be liable to the same extent that Contractor is responsible for the acts and omissions of persons that it directly employs. Nothing in this contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.

41. SEVERABILITY:

Each provision of this Contract stands alone, and any provision of this Contract that a court finds to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

42. LEGAL ARIZONA WORKERS ACT COMPLIANCE:

For the procurement of services in the State of Arizona, Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws.

County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion.

Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this section by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to ensure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this section is the responsibility of Contractor. In the event that remedial action under this section results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay will be excusable delay for which Contractor is entitled to an extension of time, but not costs.

43. CONTROL OF DATA PROVIDED BY COUNTY:

For those projects and contracts where County has provided data to enable the Contractor to provide contracted services or products, unless County otherwise specifies and agrees in writing, Contractor will treat, control and limit access to said information as confidential and will under no circumstances release any data provided by County during the term of this contract and thereafter, including but not limited to personal identifying information as defined by A.R.S. § 44-1373, and Contractor is further prohibited from selling such data directly or through a third party. Upon termination or completion of the contract, Contractor will either return all such data to County or will destroy such data and confirm destruction in writing in a timely manner not to exceed sixty (60) calendar days.

44. ISRAEL BOYCOTT CERTIFICATION:

Pursuant to A.R.S. § 35-393.01, if Contractor engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000.00 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

END OF PIMA COUNTY STANDARD TERMS AND CONDITIONS