

**COCHISE COUNTY
PROCUREMENT DEPARTMENT**

**ON BEHALF OF THE
FLEET SERVICES DEPARTMENT**



**INVITATION FOR BIDS NO. IFB 17-35-FSD-02
BULK FUEL DELIVERY**

Submittal Deadline:

Thursday, June 8, 2017 @ 4:00 p.m. local time

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This document constitutes an Invitation for Bids (IFB) via competitive sealed bids from qualified individuals and organizations to provide bulk fuel delivery as per the Scope/Specifications set forth herein.

For ease of use only, this document is divided into the following sections:

Section One	Instructions to Bidders
Section Two	Scope/Specifications
Section Three	General Terms and Conditions
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Section Five	Bid Submittal
Section Six	Offer, Acceptance and Form of Agreement

NOTE: Return ONLY Sections Five & Six as your Submittal

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SECTION ONE - INSTRUCTIONS TO BIDDERS

1.0 Definition of Key Words Used in the Invitation for Bids/Request for Proposals:

- 1.1 **County:** Cochise County, Arizona
- 1.2 **Contractor:** The individual, partnership, or corporation who, as a result of the Competitive Bidding process, is awarded this Contract by Cochise County
- 1.3 **Contract:** The legal agreement executed between Cochise County, Arizona, and the Bidder, specifically: Cochise County Contract No. IFB 17-35-FSD-02 Bulk Fuel Delivery
- 1.4 **May:** Indicates something that is not mandatory but permissible
- 1.5 **Shall, Must:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of the bid/proposal as non-responsive.
- 1.6 **Should:** Indicates something that is recommended but not mandatory. If the Bidder/Proposer fails to provide recommended information, the County may, at its sole option, ask the Bidder/Proposer to provide the information or evaluate the bid/proposal without the information.
- 1.7 **Will:** Indicates an expression of intent, but is not binding
- 1.8 **Solicitation:** An Invitation for Bids ("IFB") or Request for Proposals ("RFP")
- 1.9 **Responsible Bidder or Offeror:** Individual, partnership, or corporation who has the capability to perform the Contract requirements and the integrity and reliability that will assure good faith performance
- 1.10 **Responsive Bidder or Offeror:** Individual, partnership, or corporation who submits a bid or proposal that conforms in all material respects to the Invitation for Bids or Request for Proposals

2.0 Preparation of Bid/Offer:

It is the responsibility of all bidders/offerors to thoroughly examine the entire Invitation for Bid package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a bid/proposal. Negligence in preparing a bid/proposal confers no right of withdrawal after due time and date.

- 2.1 **Form; No Facsimile or Telegraphic Offers:**
A bid/offer shall be submitted on the forms provided in this solicitation or photocopies of those forms. Facsimile, telegraphic or Mailgram bid/offer shall be rejected.
- 2.2 **Typed or Ink; Corrections:**
The bid/offer must be typed or in ink. The person signing the bid/offer must initial erasures, interlineations or other modifications in the bid/offer in ink. Modifications will not be permitted after bids/offers have been opened.
- 2.3 **Bid/Proposal Form; Original Signatures:**
The Bid Form/Proposal Form within the solicitation must be submitted with the bid/offer and must include an original signature by a person authorized to sign the bid/offer. The signature shall signify the bidder/offeror's intent to be bound by the bid/offer and the terms of the solicitation. Failure to submit an original signature with the bid/offer shall result in rejection of the bid/offer.
- 2.4 **Exceptions to Terms and Conditions:**
A bid/offer that takes exception to a material or requirements of any part of the solicitation, including a material term and condition, may be rejected.

SECTION ONE - INSTRUCTIONS TO BIDDERS (continued)

3.0 Inquiries:

All inquiries related to this solicitation shall be directed to the Senior Buyer unless otherwise stated in the solicitation.

3.1 Submission of Inquiries:

The Buyer or the contact person identified in the solicitation may require that an inquiry be submitted in writing. Any inquiry related to a solicitation shall refer to the appropriate solicitation number, page, and paragraph. Do not place the solicitation number on the outside of the envelope containing the inquiry since it may be identified as an offer and not be opened until after the bid/offer due date and time.

3.2 Timeliness:

The Buyer shall receive any inquiry at least seven (7) days before the bid/offer due date and time. Failure to meet this time requirement may result in the inquiry not being answered.

3.3 No Right to Rely on Verbal Responses:

Any inquiry that raises material issues and results in changes to the solicitation shall be answered solely through a written solicitation addendum. A Bidder/Offeror may not rely on verbal responses to its inquiries.

4.0 Submission of Offer:

Bids/offers should be fully completed and in a sealed envelope/package BEFORE delivery to the Procurement Department. The Procurement Department will not provide the use of telephones or any packaging materials for the use of the bidder/offeror in the preparation or delivery of the bid/offer.

Bids shall be received at:

**Cochise County, Procurement Department
1415 Melody Lane, Building C
Bisbee, Arizona 85603**

Until the time and date cited on the cover page. **Sealed bids/proposals must be in the actual possession of the Procurement Department at the location indicated, on or prior to the exact time and date indicated above.** Late bids shall be returned unopened, electronic format bids/proposals will not be accepted.

4.1 Sealed Envelope or Package:

Each bid/offer shall be submitted in a sealed envelope or package that identifies its contents as:

IFB 17-35-FSD-02 Bulk Fuel Delivery

The name and address of the firm/individual submitting the Bid/Proposal must be **clearly indicated on the outside of the envelope or package containing the offer. Bids/offers that are not in sealed envelopes or packages WILL NOT BE ACCEPTED.**

4.2 Bid/Proposal Format:

One (1) original and one (1) copy of the bid submittal must be submitted on the forms and in the format specified in the solicitation. The original copy of the bid should be clearly labeled "**ORIGINAL**". Failure to include the requested information may have a negative impact on the evaluation of the bid. **Do not submit bids in ring binders.**

4.3 Submittals:

Items to be submitted in response to this solicitation shall include:

4.3.1 Completed Bid Submittal, Solicitation Section Five (5), completed with line item responses

4.3.2 Completed Offer, Acceptance and Form of Agreement, Solicitation, Section Six (6).

4.3.3 Product evaluation literature, if applicable.

SECTION ONE - INSTRUCTIONS TO BIDDERS (continued)

- 4.4 Addenda:**
Each solicitation addendum if issued shall be signed with an original signature by the person signing the bid/offer, and shall be submitted no later than the bid/offer due date and time. Failure to return a signed copy of a material solicitation addendum may result in rejection of the bid/offer.
- 4.5 Late Bids/Offers:**
A bid/offer received after the exact bid/offer due date and time shall be rejected. The bid/proposal will be returned unopened to the Bidder/Offeror.
- 4.5.1** The Official Time Clock is located in the Procurement Department. All times referred to in this solicitation are determined by this clock.
- 4.6 Overnight Delivery Service:**
Overnight delivery services do not deliver overnight to the Bisbee area. Shipment of bids/offers should be made with adequate allowances for slow delivery time.
- 4.7 Bid/Offer Amendment or Withdrawal:**
A bid/offer may not be amended or withdrawn after the offer due date and time.
- 4.8 Public Record:**
Under applicable law, all bids/offers are public records and must be retained by the County. Bids are public records upon opening. Offers are open to public inspection after Contract award. If a bidder/offeror believes that information in its offer should remain confidential, it shall stamp as confidential that information and submit a statement with its bid/offer detailing the reasons why that information should not be disclosed. The County shall make a final determination whether or not the information is confidential. If it is determined that the information may be disclosed, the bidder/offeror shall be informed in writing of such determination.
- 5.0 Offer Acceptance Period:**
In order to allow for an adequate evaluation, the County requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) calendar days from the award date, unless otherwise stated in the solicitation.
- 6.0 Taxes:**
Cochise County is subject to all state and local transaction privilege taxes imposed within the State of Arizona. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the County does not relieve the seller from its obligation to remit taxes. State of Arizona Use Tax will be paid directly to the state when orders are placed with out-of-state vendors. No taxes other than those imposed within the State of Arizona will be paid in addition to the bid/offer price.
- 7.0 Cost of Bid/Offer Preparation:**
The County will not reimburse any Bidder/Offeror the cost of responding to a solicitation.
- 8.0 Disclosure and Disqualification:**
- 8.1 Disclosure:**
If a Bidder/Offeror has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, the Bidder/Offeror shall disclose that information in its bid/offer. Failure to do so shall result in rejection of the bid/offer.
- 8.2 Disqualification:**
The bid/offer of a Bidder/Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall be rejected.
- 9.0 Award of Contract:**
- 9.1 Number or Types of Awards:**
Where applicable, the County reserves the right to make multiple awards or to award a Contract by Individual line items or alternatives, or by group of line items or alternatives, or to make an aggregate award, whichever is deemed most advantageous to the County. If it is determined that an aggregate award to one Bidder/Offeror is not in the County's best interests, "all or none"

bids/offers shall be rejected.

SECTION ONE - INSTRUCTIONS TO BIDDERS (continued)

9.2 Waiver and Rejection Rights:

Notwithstanding any other provision of the solicitation, the County reserves the right to:

9.2.1 Waive any immaterial defect or informality;

9.2.2 Reject any and all bids/offers or portions thereof; or

9.2.3 Cancel a solicitation

10.0 Contract Inception:

A response to a solicitation is an offer to Contract with the County based upon the terms, conditions and specifications contained in the County's solicitation and does not become a Contract unless and until it is awarded by the Board of Supervisors. A 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 solicitation, unless any of the Terms and Conditions are modified by a solicitation addendum, a Contract amendment, or by mutually agreed upon terms and conditions in the Contract documents.

11.0 Order of Precedence:

In the event of a conflict in the provision of this solicitation, the following shall prevail:

- Special Terms and Conditions
- General Terms and Conditions
- Specifications or Scope of Work or Services
- Documents referenced in the solicitation
- General Instructions to Bidders/Offerors

12.0 Bidder/Offeror's Contacts:

12.1 All questions regarding this solicitation, including technical specifications, solicitation, process, etc., must be directed to Terry Hudson, Procurement Director, at 520-432-8391 or thudson@cochise.az.gov. The bidder/offeror shall not contact or direct inquiries concerning this solicitation to any other County employee unless the solicitation specifically identifies a person other than the Senior Buyer as a contact.

12.2 Bidders/offers may not contact the employees of the using agency concerning this solicitation while the bid/proposal evaluation process is in progress.

13.0 Unnecessarily Elaborate Responses:

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete an effective response to the solicitation are not desired and may be construed as an indication of the bidder's lack of cost consciousness. Elaborate artwork, expensive paper and binding and expensive visual and other presentations are neither necessary nor desired.

14.0 Bid Rejection:

Submission of additional terms, conditions, and/or agreements with the bid may result in bid rejection.

SECTION TWO – SCOPE/SPECIFICATIONS

1.0 Background and Objective:

The County of Cochise maintains above ground fuel storage tanks for both diesel and unleaded fuel, at various locations throughout Cochise County. These fueling sites are used by County Departments to fuel County owned vehicles. The County is seeking responsible and responsive Bidders to furnish and deliver diesel and unleaded fuel on a “**Keep Full**” basis.

This agreement will be for a one (1) year period commencing on or about July 1, 2017 with four (4) additional option years to be exercised in one (1) year increments.

2.0 Keep Full Definition:

Keep Full shall be defined as a minimum tank capacity of Forty Five (45) percent at all times. The successful contractor shall establish a delivery schedule to ensure all fuel site locations maintain the **minimum 45% supply of fuel at all times**. If a Fleet Management Representative determines a fuel site is below 45%, an order will be called in and the Contractor will have twelve (12) hours to make the delivery at no additional cost to the County.

Because the County is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Deliveries must be made in accordance with the above stated requirements. If deliveries are not met as specified the County will strictly enforce and proceed as outlined in the General Terms and Conditions; Section Three (3); paragraph nine (9) titled **Termination by the County**.

3.0 Tank Monitors

The successful contractor shall provide all material and labor to install and maintain fuel tank monitors at all tank site locations within fourteen (14) days after receipt of award of bid at no additional expense to the County. The monitors installed shall be of a configuration to allow the County to access the real time data from Fleet Management computers. At the end of any contract term or upon contract termination the contractor shall remove the monitors or the County may negotiate for the purchase of the monitors.

4.0 Delivery Scheduling and Hours:

The Contractor shall contact the Road Yards and the Western Regional Landfill to schedule each delivery to ensure that County staff is available to sign for receipt of fuel.

- All County Road Yards are open Monday through Thursday, 6:00 AM to 4:30 PM
- The Western Regional Landfill is open Monday through Saturday, 7:00 AM to 5:00 PM.

5.0 Fuel Readings:

All tanks must have a dipstick reading before and after fuel deliveries. The Contractor's driver will use the County's dipstick that have been calibrated for each tank. The dipstick reading will be recorded on the invoice or bill of lading. The quantity delivered to any County tank in a split load will be determined entirely by readings using County dipsticks and metering, if so equipped. Conversion charts for each tank will be available at the time of delivery.

6.0 Fuel Requirements:

Fuel provided shall be unleaded and #2 diesel. Quantities provided in this bid are estimates only.

- 6.1 All gasoline delivered shall meet or exceed the ASTM specifications standard for unleaded and unleaded 10% ethanol or the latest revisions.
- 6.2 All #2 diesel delivered shall meet or exceed the ASTM specification standard of D-975-81 or the latest revisions.

General Requirements:

Fuel furnished under this specification must meet or exceed the following requirements.

- 6.3 All fuel specified shall be a currently standard product of an established manufacturer except for such deviations as may be required by this specification.

- 6.4 Fuel shall be free of all imperfections and/or defects that might affect appearance, normal life, or serviceability.
- 6.5 Details not specified herein will be in accordance with standard commercial practices for fuel of this type.
- 6.6 Contractor must be able to provide delivery vehicles with the capability of pumping into above ground fuel tanks.

7.0 Delivery Locations, Tank Capacity & Fuel Type and Estimated Annual Usage

Location	Fuel Type	Tank Size	Tank Type	Estimated Annual Usage
Highway Department Materials Yard, 1420 E. Maley St., Willcox, AZ	Diesel	4,000 gallons	Above Ground	55,527 gal.
	Unleaded	2,000 gallons	Above Ground	42,269 gal.
Road Yard #1, 17275 Maintenance Rd., Bisbee, AZ	Diesel	4,000 gallons	Above Ground	59,336 gal.
	Unleaded	6,000 gallons	Above Ground	107,828 gal.
Road Yard #2 Leslie Canyon Rd, Douglas, AZ	Diesel	4,000 gallons	Above ground	49,255 gal
	Unleaded	2,000 gallons	Above Ground	29,932 gal.
Road Yard #4 901 E. 4 th St., Hwy 86 Benson, AZ	Diesel	2,000 gallons	Above Ground	32,924 gal.
	Unleaded	1,000 gallons	Above Ground	33,945 gal.
Elfrida Road Yard Thompson & Mormon Rd., Elfrida, AZ	Diesel	3,000 gallons	Above Ground	40,809 gal.
	Unleaded	1,000 gallons	Above Ground	21,933 gal.
Western Regional Landfill 2595 N. Sagebrush Rd., Huachuca City, AZ	Diesel	3,000 gallons	Above Ground	81,249 gal.
	Unleaded	1,000 gallons	Above Ground	13,332 gal.
	Diesel	1,500 gallons	Tank Truck	48,629 gal.

7.0 Pricing:

Bid prices shall be the contractor's markup or markdown (+/-) for fuel delivered to each facility listed on the Bid Submittal Form (section five) and shall be a set price above or below the Oil Price Information Service (OPIS) weekly reported Tucson average rack price. Pricing for each week's (Sunday through Saturday) fuel shall be the published Tucson average rack price based on the preceding Thursday's weekly report plus or minus the vendors margin.

Submitted fuel prices shall include any delivery or pumping charge and will remain in effect for the duration of the contract. All prices will be exclusive of federal excise taxes.

8.0 Invoices, Bill of Lading & Delivery Tickets:

Invoices must be itemized listing the fuel cost, Federal, State and U.S.T. taxes. Invoices shall be e-mailed to the County representatives listed below.

Diesel Fuel Purchases:

Reyna Smith: rsmith@cochise.az.gov
Rick Castleberry: rcastleberry@cochise.az.gov
Cochise County Heavy Fleet Department

Unleaded Fuel Purchases: Tammy Ruoff: truoff@cochise.az.gov
Cochise County Fleet Management

Bill of Lading and Delivery Tickets shall be hand delivered after each delivery to Tammy Ruoff at the Fleet Management Department, 1151 Hereford Rd, Bisbee, AZ 85603.

Contact Person: For issues other than invoicing or payment, contact Ruben Miranda, Director, 520-432-9382, Fleet Management Department.

9.0 Compliance:

In order for consideration to be given to the bid on an item under this specification, the bidder must comply with the following conditions:

9.1 Product Identification:

Name of manufacturer, brand or trade name, etc, as applicable, of the item which the vendor proposes to furnish must be stated as part of the bid.

9.2 Exceptions:

Notwithstanding the above, any exception taken by the bidder to the requirements and conditions of this specification must be stated and described in detail as a part of the bid. If no exceptions or deviations are identified in this manner, the items must be furnished exactly as described.

9.3 Proof:

The bidder will bear the burden of proof of compliance with this specification.

10.0 Estimated Quantities

The estimated annual quantities listed are the Buyer's best estimate and do not obligate the County to order or accept more than the County's actual requirement during the period of this agreement, as determined by actual needs and availability of appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the County with its complete actual requirements for the contract period.

SECTION THREE - GENERAL TERMS AND CONDITIONS

1.0 Certification:

By signature on the Bid Submittal (section five) and Offer to County of Cochise (section six) pages of this solicitation the Bidder certifies:

- 1.1 The submission of the bid/offer did not involve collusion or other anti-competitive practices.
- 1.2 The Bidder shall not discriminate against any employee, or applicant for employment in violation of Federal Executive Order 11246 and State Executive Order 75.5 and A.R.S. §31-1461 et. seq.
- 1.3 The Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid/offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the offer. Signing the bid/offer with a false statement shall void the bid/offer, any resulting Contract and may be subject to legal remedies provided by law.
- 1.4 The Bidder agrees to promote and offer to the County only those materials and/or services as stated in and allowed for under resultant Contract(s) as County Contract items.

2.0 Gratuities:

The County may, by written notice to the Contractor, cancel this Contract if it is found by the County that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the County with a view toward securing a Contract, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is canceled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and

remedies, to recover or to withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to eligible County Government customers shall not be prohibited by this paragraph.

3.0 Applicable Law:

This Contract shall be governed by, and the County and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this Contract or in statutes pertaining specifically to the State. The Law of the State of Arizona shall govern this Contract, and suits pertaining to this Contract shall be brought only in Federal or State Courts in the State of Arizona. This provision does not supersede or invalidate the Arbitration requirement of Paragraph 5.0

4.0 Arizona Procurement Code:

The Arizona Procurement Code (A.R.S. Title 41, Chapter 23) and the Cochise County Purchasing Policy are a part of this document as if fully set forth herein.

5.0 Legal Remedies:

If the Contractor and Cochise County are unable to mutually resolve disputes arising under this contract, all disputes arising under or relation to this Contract shall be settled by binding Arbitration. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such Arbitration shall be conducted by an experienced and knowledgeable Arbitrator(s) and shall include a written record of the Arbitration hearing. If the Contractor and Cochise County can mutually agree upon an Arbitrator, that Arbitrator shall be selected. If not, the Contractor and Cochise County shall each select an Arbitrator and those two Arbitrators shall select a third Arbitrator (or the Contractor and Cochise County shall request a third Arbitrator from the Arizona Arbitration Association). All Arbitrations will be held in the State of Arizona and under the Arizona Rules of Arbitration. All claims and controversies shall be subject to A.R.S §12-1518 et. Seq.

6.0 Contract:

The Contract shall be based upon the solicitation issued by the County and bid/offer submitted by the Contractor in response to the solicitation. The bid/offer shall substantially conform to the terms; conditions and other requirements set forth with the rest of the solicitation. The County reserves the right to clarify any contractual terms with the concurrence of the Contractor. However, any substantial non-conformity in the bid/offer shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the County of Cochise and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders or master agreements in any form.

7.0 Contract Amendments:

This Contract shall be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the County and the Contractor.

8.0 Provisions Required by Law:

Each and every provision of Law and any clause required by Law to be in the Contract shall be read and enforced as though it were included herein. And if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

9.0 Termination by the County:

The County may cancel this Contract without penalty or further obligation pursuant to A.R.S. §38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the County is or becomes, at any time while the Contract or any extension of the Contract is in effect any employee of, or consultant to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when written notice from the County is received by the parties to this Contract, unless the notice specifies a later time.

9.1 This contract may also be terminated at any time by mutual written consent, or by the County, with or without cause, upon giving the thirty (30) days written notice to the Contractor. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the County before the effective date of termination.

9.2 The County reserves the right to cancel the whole or any part of this contract due to failure of the Contractor to carry out any term, promise or condition of the contract. The County will issue a written ten (10) day notice of default to the Contractor for acting or failing to act any of the following, in the opinion of the County:

9.2.1 Contractor provides personnel who do not meet the requirements of the contract;

9.2.2 Contractor fails to adequately perform the stipulations, conditions, or services/specifications required in the contract;

9.2.3 Contractor attempts to impose on the County personnel, materials, products, or workmanship that is not of an acceptable quality;

9.2.4 Contractor fails to furnish the required service and/or product within the time stipulated in the contract;

9.2.5 Contractor fails to make progress in the performance of the requirements of the contract and/or gives the County a positive indication that Contractor will not or cannot perform to the requirements of the contract.

10.0 Severability:

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract that may remain in effect without the invalid provision or application.

11.0 Relationship of Parties:

It is clearly understood that each party shall 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 party for any purpose whatsoever. The Contractor is advised that taxes or Social Security payments shall not be withheld from a County payment issued hereunder and that Contractor should make arrangements to directly such expenses, if any.

12.0 Interpretation - Parol Evidence:

This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object. Whenever a term defined by the Cochise County Purchasing Policy is used in this Contract, the definition contained in the Policy shall control.

13.0 Assignment - Delegation:

The Contractor without prior written permission of the County shall assign no right or interest in this Contract, and no delegation of any duty of the Contractor shall be made without prior written permission of the County. The County shall not unreasonably withhold approval and shall notify the Contractor of the County's position within 15 days of receipt of written notice by the Contractor.

14.0 Subcontracts:

The Contractor shall enter into no subcontract with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the County. All subcontracts shall comply with Federal and State Laws and Regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein.

The Contractor is responsible for Contract performance whether or not subcontractors are used. The County shall not unreasonably withhold approval and shall notify the Contractor of the County's position within 15 days of receipt of written notice by the Contractor.

15.0 Rights and Remedies:

No provision in this document or in the Contractor's offer shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of Contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the

Contract, or by law, or the acceptance of materials or services, or the payment for materials or services, shall not release either party from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

16.0 Protests and Disputes:

A protest shall comply with and be resolved according to the Cochise County Procurement Policy, Section Fifteen. Any interested party may protest a solicitation, a proposed award or the actual award of a County contract. All written protests will be reviewed and receive a written response. Protests may be transmitted by facsimile machine.

Protestors should first contact the Procurement by telephone, with their questions regarding a solicitation, award or proposed award as the first step in the protest process. Frequently, the questions or problems can be resolved in this manner. Receipt of a verbal response does not preclude filing a formal written protest.

- Protests regarding alleged improprieties in a solicitation that are apparent before the bid opening shall be filed five (5) working days before the bid opening date.
- Protests regarding materials included by addendum and received by the protestor less than five (5) working days before the bid opening shall be submitted with the bid.
- Protests regarding a proposed award shall be submitted as soon as known by the date of award.
- Protests regarding the actual award of a contract shall be filed within five (5) working days of the contract award, or within five (5) working days of the mailing of the notice of award, whichever is later.

A formal protest must be in the form of a letter from the protestor to the Procurement Director. It must include:

- The name, address, and telephone number of the protestor and the original signature of the protestor or its representative;
- The name and number of the solicitation that is being protested;
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- The form of relief requested.

The Procurement Director will respond to all disputes within seven (7) working days of the receipt of the dispute. The response shall contain an explanation of the basis for the decision. The time period for this response may be extended for good cause for up to thirty (30) calendar days. The disputant shall be notified in writing that the time for issuance of a response has been extended.

17.0 Warranties:

Contractor warrants that all material, service or construction delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material, service, or construction specified and any inspection incidental thereto by the County shall not alter or affect the obligations of the Contractor or the rights of the County under the foregoing warranties. Additional warranty requirement may be set forth in this document.

18.0 Overcharges by Antitrust Violations:

The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the County any and all claims for such overcharges as to the goods or services used to fulfill the Contract.

19.0 Force Majeure:

19.1 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 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 refusal 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. The Force Majeure shall be deemed to commence when the party declaring Force Majeure notifies the other party of the existence of the Force Majeure and shall be deemed to continue as long as the results or effects of the Force Majeure prevent the party from resuming performance in accordance with this agreement. Force Majeure shall not include the following occurrences:

- 19.2** Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere or an oversold condition of the market.
- 19.3** Late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by Force Majeure.
- 19.4** 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 practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand 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 modification 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.
- 20.0 Right to Assurance:**
Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
- 21.0 Records:**
Pursuant to provisions of A.R.S. Title 35, Chapter 1, Article 6, §35-214 and §35-215, each Contractor shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All such documents shall be subject to inspection and audit at reasonable times. Upon request, a legible copy of any or all such documents shall be produced for the County.
- 22.0 Advertising:**
Contractor shall not advertise or publish information concerning this Contract without prior written consent of the County. The County shall not unreasonably withhold permission.
- 23.0 Exclusive Possession:**
All services, information, computer program elements, reports and other deliverables which may be created under this Contract are the sole property of the County of Cochise and shall not be used or released by the Contractor or any other person except with prior written permission of the County.
- 24.0 Title and Risk of Loss:**
The title and risk of loss of material or service shall not pass to the County until the County actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
- 25.0 No Replacement of Defective Tender:**
Every tender of materials must fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender. Compliance shall conform to the cancellation clause set forth within this document.
- 26.0 Default in One Installment to Constitute Total Breach:**
Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the County, shall constitute a breach of the Contract as a whole. Compliance shall conform to the cancellation clause set forth within this document.

27.0 Shipment Under Reservation Prohibited:

Contractor is not authorized to ship materials under reservation and no tender of a Bill of Lading shall operate as a tender of materials. Compliance shall conform to the cancellation clause set forth within this document.

28.0 Liens:

All goods, services and other deliverables supplied to the County under this Contract shall be free of all Liens other than the security interest held by the Contractor until payment in full is made by the County. Upon request of the County, the Contractor shall provide a formal release of all Liens.

29.0 Payment:

A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material, service or construction and correct invoice. Payment shall be subject to the provision of A.R.S. Title 35.

30.0 Licenses:

Contractor shall maintain in current status all Federal, State, and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to the Contract.

31.0 Preparation of Specifications by Persons Other than County Personnel:

All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the County's needs in accordance with A.R.S. Chapter 23, Article 4. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.

32.0 Cost of Bid Preparation:

The County shall not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

33.0 Public Record:

All bids and proposals submitted in response to this solicitation shall become the property of the County and shall become a matter of Public Record available for review, subsequent to the award notification. As provided by the Cochise County Purchasing Policy.

34.0 Payment by the County:

Each payment obligation of the County created hereby is conditioned upon the availability of County, State, and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the County and available for the continuance of services herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify the Contractor at the earliest possible time which service will or may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

35.0 Independent Contractor:

The contractor shall be legally considered an independent contractor and neither the contractor nor its employees shall, under any circumstances, be considered servants or agents of Cochise County; and the County shall be at no time legally responsible for any negligence or other wrongdoing by the contractor, its servants or agents.

35.1 The County shall not withhold from the contract payments to the contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the contractor. Further the County shall not provide to the contractor any insurance coverage or other benefits, including Workers Compensation, normally provided by the County for its employees.

36.0 Legal Arizona Workers Act Compliance:

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"). The Contractor shall further ensure that each subcontractor who performs any work for the Contractor under this contract likewise complies with the State and Federal Immigration Laws.

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

Any breach of the Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this contract subjecting the 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, the Contractor shall be required to 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, (subject to County approval if MWBE preferences apply) as soon as possible so as not to delay project completion. The Contractor shall advise each subcontractor of the County's rights, and the subcontractor's obligations, under this Section by including a provision in each subcontract substantially in the following form:

"The Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal laws applicable to the Subcontractor's employees and with the requirements of A.R.S. §23-214(A). The Subcontractor further agrees that the County may inspect the Subcontractor's books and records to insure that the Subcontractor is in compliance with these requirements. Any breach of this paragraph by the Subcontractor will be deemed to be a material breach of this contract subjecting the 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 shall be responsibility of the Contractor. In the event that remedial action under this Section results in delay to one or more tasks on the critical path of the Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which the Contractor shall be entitled to an extension of time, but not costs.

37.0 Local Vendor Preference:

The Cochise County Board of Supervisors hereby establishes the following local vendor preference policy effective January 1, 2012. In recognition of the benefits from transaction privilege taxes ("TPT") and property taxes paid by local businesses to Cochise County, as well as indirect benefits to County residents from vibrant local businesses, a local preference credit of 3% shall be granted to local vendors when evaluating bids for supplies, equipment and materials and personal services. This preference is subject to the following:

37.1 The local preference credit does not apply to bids on construction projects.

37.2 In no event will the credit on any one bid exceed \$2,500.

37.3 The 3% credit will apply only to the parts of the bid on which TPT are paid. For example, if the total amount of a bid is \$75,000, in which \$50,000 is subject to payment of TPT, and \$25,000 is exempt from TPT, the 3% credit will be \$1,500 (.03 x \$50,000).

37.4 A vendor is deemed a local business—and therefore entitled to the 3% credit—if the TPT on the bid will be paid to, or inure to the benefit of, Cochise County or a city or town in Cochise County. The vendor will be responsible for demonstrating this to the satisfaction of the Procurement Director, who will make the determination in his sole discretion.

37.5 A local preference will also be allowed on Requests for Proposals, in which case the 3% credit will be calculated on the points otherwise scored by a vendor. The determination as to whether a vendor is deemed a local business will follow the guidelines above.

37.6 The Procurement Director has developed forms to make the application for the credit uniform and fair, including an affidavit of eligibility for the credit.

37.7 From time to time questions as to eligibility, and amounts of credit, will arise. When these arise, the Procurement Director will make the determination in consultation with the County Administrator or Deputy County Administrator.

SECTION FOUR - SPECIAL TERMS AND CONDITIONS

- 1.0 Bid/Proposal Opening:**
Bids/proposals shall be opened publicly at the time and place designated on the cover page of this document.
- 1.1 Bids:**
Bids shall be read publicly and recorded.
- 1.2 Proposals:**
The name of each offeror shall be read publicly and recorded. Proposals will not be subject to public inspection until after the Contract award.
- 2.0 Offer Acceptance Period:**
In order to allow for an adequate evaluation, the County requires a bid/offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the opening time and date.
- 3.0 Award of the Contract:**
The Board of Supervisors will award the Contract to the lowest, responsive and responsible Bidder, whose bid is most advantageous to the County.
- 4.0 Effective Date of Contract:**
Approval of the award by the Board of Supervisors, countersigned by the Clerk of the Board are the conditions precedent to the effectiveness of this Contract.
- 5.0 Upon Award of the Contract:**
The successful Bidder shall sign and file with the County, within ten (10) days after notification of Award, all documents necessary to the successful execution of the Contract, to include contract documents, Form of Agreement, and insurance certificates.
- 6.0 Term of the Contract:**
The term of the Contract shall be for a one (1) year period from the date of award. The County may, at their option and with the approval of the Contractor, extend the period of this agreement up to four (4) additional years, in one (1) year increments. Contractor shall be notified in writing by the Procurement Director or his designee of the County's intention to extend the contract period at least thirty (30) calendar days prior to the expiration of the original contract period.
- 7.0 Confidential Information:**
If a person believes that any portion of proposal, bid, offer, specification, protest, or correspondence contains information that should be withheld, the Procurement Director should be so advised in writing. The County shall review all requests for confidentiality and provide a written determination. If the confidentiality request is denied, such information shall be disclosed as public information unless the person utilizes the "Protest" provision listed elsewhere in this solicitation.
- 8.0 Suspension or Debarment Status:**
If the firm, business or person submitting this bid or offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or Local Government, the Bidder or Offeror must include a letter with its bid or offer setting forth the name and address of the governmental unit, the effective date of the suspension or debarment. Failure to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment shall result in rejection of the bid or offer or cancellation of a Contract. The County may also exercise any other remedy available by law.
- 9.0 Minimum Requirements:**
Items specified in this bid/proposal are only to acknowledge the minimum requirements needed. The County reserves the right to select items it deems are most suitable for the intended purpose and use. It is the intent that this will be a guide to specifying the desired material/equipment and not to restrict others from bidding/offering.
- 10.0 Compensation and Method of Payment:**
In consideration of the equipment and services provided as described in the specifications/scope of work, the County will pay the Contractor the sum or amounts as set forth in the Bid/Proposal Page herein, and the Contractor will charge the County only in accordance with those same amounts.

- 10.1 The County will generate a purchase order after the approval of award. Payment will be processed within thirty (30) days following the receipt of an itemized invoice(s) by the County. Payment will be made by a third party Financial Institution to be determined at that time. No payment(s) will be issued until the receipt and acceptance of all equipment, services and correct invoice(s) have been received.
- 11.0 **Authorization for Orders:**
Authorization for purchases under the terms and conditions of this Contract will be made only upon issuance of a Purchase Order. A separate delivery release will be issued against the Purchase Order, either in writing or by telephone.
- 12.0 **Compensation and Method of Payment:**
In consideration of the performance of the services described in the specifications/scope of work, the County will pay the Contractor the sum or amounts as set forth in the Bid/Proposal Page herein, and the Contractor will charge the County only in accordance with those same amounts.
- 12.1 The County will pay the Contractor within thirty (30) days following the receipt of itemized invoice(s) for the services rendered. No payment will be issued prior to receipt of material or service and correct invoice.
- 13.0 **Non-exclusive Contract:**
Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the County of Cochise. The County reserves the right to obtain like services from another source when necessary.
- 14.0 **Federal Excise Tax Exemption:**
Cochise County is exempt from payment of all Federal Excise Taxes in connection with this purchase. **Said taxes must not be included in bid prices.** The County will provide the necessary tax exemption certificates to the manufacturer if required.
- 15.0 **Hazardous Substances:**
Bidders responding to this Invitation for Bids shall furnish Materials Safety Data Sheets (MSDS) for those items requested in the bid. This requirement pursuant to OSHA Hazard Communications Regulations per 29 CFR Part 1910.1200.
- 16.0 **Protection of Government Building, Equipment and Vegetation:**
The Contractor shall use reasonable care to avoid damaging existing buildings, equipment and vegetation (such as trees, shrubs, and grass) on County property. If the Contractor fails to do so and damages such buildings, equipment, and vegetation, the Contractor shall replace or repair the damage at no expense to the County as directed by the County's Authorized Representative. If the Contractor fails or refuses to make such repair or replacement, then the Contractor shall be liable for the cost thereof which may be deducted from the contract price.
- 17.0 **Indemnification**
To the extent allowed by law, Contractor shall indemnify, defend, and hold harmless Cochise County, and it's officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury (including death), personal injury, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractor. This indemnity includes any claim or amount arising out of, or recovered under the Worker's Compensation Law or arising out of the failure of such contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instance, except for Claims arising solely from the negligent or willful acts of omission of the Indemnitee, be indemnified by Contractor form and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, the Contractor agrees to waive all rights of subrogation against Cochise County, its officers, officials, agents and employees from losses arising from the work performed y the Contractor for Cochise County. The scope of this indemnity will not be limited by the Insurance Requirements contained herein.
- 18.0 **INSURANCE REQUIREMENTS:**
Contractor 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 purchase and or use of the commodity.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage at least as broad and with limits not less than those stated below.

1. **Commercial General Liability – Occurrence Form**
 Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Blanket Contractual Liability – Written and Oral	\$1,000,000
• Each Occurrence	\$1,000,000

2. **Business Automobile Liability**
 Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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a. The policy shall be endorsed to include the following additional insured language:
 “The County of Cochise, its departments, agencies, boards, officers, officials, agents and employees shall be named as additional insured's with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor.”

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

a. This requirement shall not apply when a contractor or subcontractor is exempt under A.R.S. 23-901, **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies are to contain, or be endorsed to contain, the following provisions:

1. The County of Cochise, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance

policies above shall require (30) days written notice to the County of Cochise. Such notice shall be sent directly to **Terry Hudson, Procurement Director, Cochise County Procurement Department, 1415 Melody Lane, Bldg C, Bisbee, AZ 85603** and shall be sent by certified mail, return receipt requested.

- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than A-VII. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the 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 and remain in effect for the duration of the project. Failure to maintain the insurance 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 **Terry Hudson, Senior Buyer Cochise County Procurement Department, 1415 Melody Lane, Bldg C, Bisbee, Arizona 85603**. The County project/contract number and project description are to be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE COUNTY'S RISK MANAGEMENT DIVISION.**

- F. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract must have prior approval from the County Procurement Department, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.

- G. **MISCELLANEOUS:**

1. **NON-DISCRIMINATION:** The parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.
2. **CONFLICT OF INTEREST:** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. §38-511 regarding Conflict of Interest.
3. **NO BOYCOTT OF ISRAEL:** In accordance with A.R.S. §35-393.01, the parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel, and will not adopt a procurement, investment, or other policy that had the effect of inducing or requiring a person or company to boycott Israel.
4. **COMPLIANCE WITH IMMIGRATION LAWS:** The parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to the parties' employment of its employees, and with the requirements of A.R.S. §23-214(A) (together the "State and Federal Immigration Laws"). The parties shall further ensure that each sub-consultant who performs and work for the party under this Agreement likewise complies with the State and Federal Immigration Laws.
5. **INSPECTION AND AUDIT:** The parties agree to keep all books, accounts, reports, files, and other records relating to this Agreement for five (5) years after completion of the contract; and, in addition, agree that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. §35-214.
6. **PUBLIC RECORDS LAW:** Notwithstanding any other provision of the agreement, the parties understand that Cochise County is a public entity and, as such, is subject to Arizona's public records law, A.R.S. §39-121 et. Seq.

**COCHISE COUNTY
PROCUREMENT DEPARTMENT
1415 Melody Lane, Building C
Bisbee, Arizona 85603**

**INVITATION for BIDS #IFB 17-35-FSD-02
BULK FUEL DELIVERY**

7. **JURISDICTION AND APPLICABLE LAW:** This Agreement shall be governed by the laws of the State of Arizona. Jurisdiction and venue for any action under this Agreement shall be in Cochise County, Arizona.