

NOTICE OF REQUEST FOR CONTRACT

January 15, 2019

LOCATION: Cochise County Board of Supervisors
1415 Melody Lane, Building G
Bisbee, Arizona 85603

Offerors are strongly encouraged to carefully read the entire Request for Contract.

Designated Agency: Board of Supervisors/Board of Equalization

Material and/or Service: Hearing Officer Services

Contract Type: Firm, Fixed Price

Contract Term: Date of Award for One Year

Phone: (520) 432-9200

Contract Is Offered By: Board of Supervisors
Cochise County Board of Supervisors

INSTRUCTIONS TO OFFERORS

PREPARATION OF PROPOSAL:

All proposals shall be on the forms provided in this Request for Contract package. It is permissible to copy these forms if required. Telegraphic proposals or mailgrams will not be considered.

The Offer and Contract Award document must be submitted with an original ink signature by the person authorized to sign the offer.

Erasures, interlineations or other modifications in the proposal shall be initialed in original ink by the authorized person signing the Vendor Offer.

In case of error in the extension of prices in the proposal, the unit price will govern.

Periods of time, stated as a number of days, shall be calendar days.

It is the responsibility of all offerors to examine the entire Request for Contract package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing an Offer confers no right of withdrawal.

INQUIRIES: Any question related to a Request for Contract must be directed to the person whose name appears on the front. Questions should be submitted in writing when time permits. The Board of Supervisors may require any and all questions to be submitted in writing at the County's sole discretion. Any correspondence related to a Request for Contract should refer to the appropriate Request for Contract number, page, and paragraph number.

PROSPECTIVE OFFEROR'S CONFERENCE: A prospective offeror's conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this document. The purpose of this conference will be to clarify the contents of this Request for Contract in order to prevent any misunderstanding of the County's position. Any doubt as to the requirements of this Request for Contract or any apparent omission or discrepancy should be presented to the County at this conference. The County will then determine the appropriate action necessary, if any, and issue a written amendment to the Request for Contract. Oral statements or instructions will not constitute an amendment to this Request for Contract.

AMENDMENT OF PROPOSAL: Receipt of a Solicitation Amendment must be acknowledged by signing and returning the document to the County.

PAYMENT: The County will make every effort to process payment for the purchase of goods or services within thirty (30) calendar days after receipt of goods or services and a correct notice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any offer that requires payment in less than thirty (30) calendar days shall not be considered.

TAXES: The State of Arizona is exempt from Federal Excise Tax, including the Federal Transportation Tax. Exemption Certificates will be furnished upon request. Sales Taxes, if any, shall be indicated as a separate item. The offeror shall be responsible for all Federal and State Income Taxes. The offeror shall also be responsible for any other related taxes or expenses.

AWARD OF CONTRACT:

1. Unless the offeror states otherwise, or unless otherwise provided within the Request for Contract, the County reserves the right to award by individual line item, by a group of line items, or as a total, whichever is deemed most advantageous to the County.
2. Notwithstanding any other provision of the Request for Contract, the County expressly reserves the right to:
 - 2.1 Waive any immaterial defect or informality; or
 - 2.2 Reject any or all proposals, or portions thereof; or
 - 2.3 Reissue a Request for Proposals.
3. A response to a Request for Contract is an offer to contract with the County based upon the terms, conditions, scope of work and specifications contained in the County's Request for Contracts. Contracts do not become valid until they are accepted by an authorized procurement office. A contract is formed when the procurement office provides written notice of award(s) to the successful offeror(s). The contract has its inception in the award document, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the procurement contract are contained in the Request for Contract; unless modified by a Solicitation Amendment or a Contract Amendment signed by the authorized procurement officer.

OFFER

TO COCHISE COUNTY, STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. The signature also certifies understanding and compliance with paragraph one of the attached State of Arizona Standard Terms and Conditions.

Arizona State Board of Equalization
Company Name

Signature of Person Authorized to Sign Offer

100 North 15th Ave., Suite 130
Address

George R. Shook
Printed Name

Phoenix, Arizona 85007
City State Zip

Interim Chairman
Title

For clarification of this offer, contact:

Name: George Shook
Phone: (602) 364-1611

FAX No.: (602) 364-1616

ACCEPTANCE OF OFFER AND CONTRACT AWARD
(For Cochise County, State of Arizona Use Only)

Your offer is hereby accepted.

The Contractor is now bound to sell the materials, services or construction listed by the attached award notice based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the contractor's offer as accepted by the County.

This contract shall henceforth be referred to as Contract No. 00002A. The contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until the contractor receives an executed purchase order or contract release document.

Cochise County, State of Arizona

Awarded this _____ day of _____ 2019

Cochise County Board of Supervisors

PART ONE

INTRODUCTION AND BACKGROUND

1. Introduction

1.1 This document constitutes a Request for Contract, via competitive proposals, from qualified individuals and organizations, to provide hearing officer services to the Board of Supervisors/Board of Equalization (hereinafter referred to as the “Board”.)

1.2 For ease of use only, this document is divided into five sections; Part One is the Introduction, Part Two describes the Scope of Work, Part Three is the Special Terms and Conditions, Part Four is Special Instructions to offerors, and Part Five contains the Pricing Schedule, Exhibits and Attachments.

2. Background/Purpose

2.1 The Board of Supervisors is soliciting Requests for Contracts from persons to conduct administrative hearings on matters of alleged violations of Arizona Revised Statutes Title 42. This includes any hearings that are required pursuant to A.R.S. §42-15105, A.R.S. §42-16102, A.R.S. §42-16105, A.R.S. §42-16252, A.R.S. §42-16254 and A.R.S. §42-19052. The Board’s hearings are conducted under the Arizona Administrative Procedures Act Title 41, Chapter 6, Article 6; Adjudicative Proceedings.

2.2 The Board conducts several administrative hearings each year; each hearing day typically lasts 7.0 hours.

PART TWO

SCOPE OF WORK

1. General Requirements:

1.1 The contractor shall have the capability and requisite experience and expertise to conduct administrative hearings for the Cochise County Board of Supervisors/Board of Equalization (hereinafter referred to as the "Board").

1.2 The contractor shall provide the services on an as-needed basis in accordance with the provisions of A.R.S. §42-16151 et seq.

2. Specific Requirements:

2.1 The contractor shall meet with the Clerk of the Board to receive and report on hearing assignments.

2.2 The contractor shall conduct prehearing conferences, rule on prehearing motions, preside over settlement negotiations or institute any other proceedings that the hearing officer thinks shall aid in the appropriate disposition of the issues prior to the hearing.

2.3 The contractor shall conduct any legal and/or factual research necessary for a legally correct, and full and fair adjudication of the issues raised during the hearing.

2.4 The contractor shall preside over the Board's hearings when assigned. In the hearing officer's role as presiding officer, the hearing officer shall rule on the admissibility of evidence and testimony and shall generally supervise the conduct of the hearing.

2.5 The contractor shall provide findings of fact, conclusions of law, and shall transmit the findings and conclusions to the Board in accordance with Board established formats and deadlines.

3. Board Furnished Services

3.1 The Board will provide audio recording equipment and/or tape recorder with tapes as reserve equipment for the contractor. The contractor will provide the primary resource for recording hearings and will maintain recorded hearings.

3.2 The Board will provide all necessary office supplies.

3.3 The Board will provide the hearing location.

3.4 The Board will serve all documents and Notice of Decisions on the respective parties, including the hearing officer's findings of fact and conclusion of law. The contractor will serve all Notice of Hearing on the respective parties for all appeals.

3.5 The Board shall require all necessary forms and information be submitted at the time of filing an appeal.

3.6 The Board shall forward to the contractor, by mail, all appeals received as soon as possible. If an appeal, pursuant to §42-16252 et al; §42-16254 et al; and §42-19052, is received, the offeror shall be immediately notified of such filing and a faxed or emailed copy of the appeal shall be sent to the contractor.

4. Qualifications

4.1 Individuals shall be selected on the basis of their work experience and other qualifications in at least one of the following categories:

1. Experience in at least four of the preceding eight years in property valuation, property tax appeals or appraising real property.
2. A certified general appraiser pursuant to A.R.S. §32-3612.
3. A property valuation hearing officer or member of the State Board of Equalization, or any predecessor to the Board; for at least four of the preceding eight years.
4. A member of the State Bar of Arizona with at least four years of experience in property valuation or condemnation practice.

PART THREE

SPECIAL TERMS AND CONDITIONS

1. Offer Acceptance Period: Proposals shall be irrevocable offers for 90 days after the proposal due date.
2. Term of Contract: The term of the contract shall commence upon award and shall remain in effect for a period of one year.
3. Contract Renewal: The contract shall not bind nor purport to bind, the County for any contractual commitment in excess of the original contract period.
4. Pricing:
 - 4.1. Pricing must be submitted on an all-inclusive daily basis. The County will not reimburse any item other than the all-inclusive daily rate multiplied times the number of days actually worked and those items identified in the attached pricing schedule.
 - 4.2. The County shall reimburse the contractor for all rental car expenses and/or mileage pursuant to State of Arizona Employee Travel Rules as related to contractor services.
 - 4.3. When requested by the BOS to perform work that requires overnight accommodations, the County will reimburse the contractor in accordance with the current rates specified in the Rules and Regulations applicable to State of Arizona Employee Travel Rules. The contractor shall itemize all per diem and lodging charges.
5. Estimated Usage: The contract shall be on an as needed/if needed basis. The County makes no guarantee as to the number of hours required.
6. Payment: The contractor shall submit to the County a statement of charges at the conclusion of all work. The statement shall include a record of time expended and work performed in sufficient detail to justify payment. After acceptance of all work performed, the Board shall process the claim for prompt payment in accordance with the standard operating procedures of the County.

7. Availability of Funds for the Next Fiscal Year: Funds are not presently available for performance under this contract beyond the current fiscal year. The County's obligation for performance of this contract beyond this fiscal year is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the County for any payment may arise for the performance under this contract beyond the current fiscal year until funds are made available for the performance of this contract.
8. Confidentiality of Records: The contractor shall establish and maintain procedures and controls that are acceptable to the Board for the purpose of assuring that no information contained in its records or obtained from the County or from others in carrying out its functions under the contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the contract. Persons requesting such information shall be referred to the County. The contractor also agrees that any information pertaining to an individual person(s) shall not be divulged other than to employees or officers of the contractor as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the County.
9. Cancellation: The County reserves the right to cancel the whole or any part of the contract due to the 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 as in any of the following:

The contractor fails to perform adequately the services required in the contract.

The contractor fails to furnish the required product within the time stipulated in the contract.

The contractor fails to make progress in the performance of the requirements of the contract and/or gives the County a positive indication that the contractor will not or cannot perform to the requirements of the contract.
10. Multiple Awards: In order to ensure adequate coverage of Board requirements, multiple awards may be made.
11. Termination: The Board reserves the right to terminate the contract at any time, for the convenience of Cochise County, without penalty or recourse, by giving written notice to the contractor at least thirty (30) days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, and reports prepared by the contractor under the contract shall, at the option of the BOS become the property of Cochise County. The contractor shall be entitled to receive just and equitable compensation for that work completed prior to the effective date of termination.

12. 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, the duration of the suspension or debarment, and the relevant circumstances relating to 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 also may exercise any other remedy available by law.

13. Suspension or Debarment Certification: By signing the offer section of the Offer and Acceptance page the bidder or offeror certifies that the firm, business or person submitting the bid or offer has not been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or Local Government. Signing the offer section without disclosing all pertinent information about a debarment or suspension shall result in rejection of the bid or offer or cancellation of a contract. The County also may exercise any other remedy available by law.

14. Compliance with other Provisions: The Contractor shall comply with the Americans with Disabilities Act of 1990 (Public Law 101-336) and the Arizona Disability Act of 1992 (A.R.S. §41-1492 et. seq.), which prohibits discrimination on the basis of physical or mental disabilities in delivering contract services or in the employment, or advancement in employment of qualified individuals.
 - 14.1 People with disabilities may request special accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for special accommodations must be made 72 hours in advance.

 - 14.2 If special accommodations are required, please contact the Board of Supervisors/Board of Equalization.

PART FOUR

SPECIAL INSTRUCTIONS TO OFFERORS

1. Offeror's Contacts:

1.1 All questions regarding this Request for Contract including technical specifications, contract process, etc., must be directed to the procurement specialist as indicated on the first page of this document.

1.2 Offerors may not contact the employees of the using agency concerning this procurement while the contract and evaluation are in process.

2. Evaluation Criteria: Evaluation criteria are listed in the relative order of importance. The award will be made to the responsible offeror whose contract is determined to be the most advantageous to the County based on the following criteria:

2.1 Experience/Expertise

3. Contract Format: Two (2) original contracts should be submitted in the format specified in the RFC. The contracts should be clearly labeled "ORIGINAL". The material should be in sequence and related to the RFC. The County will not provide any reimbursement for the cost of developing or presenting contracts in response to this RFC. Failure to include the requested information may have a negative impact on the evaluation of the offeror's contract. The contract should include at least the following information:

3.1 Experience/Expertise: This section of the contract should include the following:

3.1.1 A detailed resume/narrative including, but not limited to:

3.1.2 Information on the offeror's educational background.

3.1.3 Information on the offeror's expertise/experience with administrative hearings.

3.1.4 Any information that may reflect on the offeror's ability to perform the required services (e.g. demonstrated knowledge of Arizona Revised Statutes and agency rules.)

3.2 Price: The contractor must provide a firm, fixed all-inclusive price for all requirements set forth in this Request for Contract. All firm, fixed prices must be shown on the pricing schedule of this RFC. The pricing schedule must be completed, signed, and returned with the offeror's proposal.

4. Contractor Qualifications:

4.1 Individuals shall be selected on the basis of their work experience and other qualifications in at least one of the following categories:

4.1.1 Experience in at least four of the preceding eight years in ad valorem property valuation, property tax appeals or appraising real property.

4.1.2 A certified general appraiser pursuant to A.R.S. §32-3612.

4.1.3. A property valuation hearing officer or member of the State Board of Equalization, or any predecessor to the board; for at least four of the preceding eight years.

4.1.4. A member of the State Bar of Arizona with at least four years of experience in property valuation or condemnation practice.

4.1.5. Must possess the ability to speak and to write clearly and concisely; negotiating skills; ability to analyze facts and to apply relevant laws to facts; questioning skills (eliciting relevant information); ability to maintain order in an emotionally charged atmosphere.

4.1.6. Must be capable of rendering fair and impartial decisions and must have no conflict-of-interest in performing the duties.

5. Discussion: In accordance with A.R.S. §41-2534, after the initial receipt of contracts, discussions may be conducted with offeror(s) who submitted contracts determined to be reasonably susceptible of being selected for award.

6. Definition of Key Words Used in the RFC:

6.1 Shall, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.

6.2 Should: Indicates something that is recommended but not mandatory. If the offeror fails to provide the requested information, the County, may, at its sole option, ask the offeror to provide the information, or, evaluate the proposal without the information.

6.3 May: Indicates something that is not mandatory but permissible.

NOTE: The Offer and Contract Award Sheet, the Pricing Schedule, and any Solicitation Amendments must be signed and returned with the offeror's proposal.

PART FIVE
PRICING SCHEDULE EXHIBITS AND ATTACHMENTS
REQUEST FOR CONTRACT

PART FIVE

PRICING SCHEDULE

1. The offeror shall provide all services required:
 - 1.1 \$300.00 (three hundred dollars) per day for Professional/Hearing Officer Services.
\$200.00 (two hundred dollars) per day for Professional Hearing Officer Services for a partial day (4 hours or less) when prorated between counties.
 - 1.2 \$200.00 (two hundred dollars) per day, minimum of 2 days, for administrative processing of appeals database, Notice of Hearings and Notice of Decisions for the appeals filed pursuant to ARS §42-16105.
 - 1.3 \$200.00 (two hundred dollars) per day, minimum of 2 days, for administrative processing of appeals database, Notice of Hearings and Notice of Decisions for the appeals filed pursuant to ARS §42-15105.
 - 1.4 Hearings regarding Personal Property, Notice of Proposed Correction and Notice of Claim may be conducted whenever possible.
2. Rental car expenses and/or mileage pursuant to State of Arizona Employee Travel Rules shall be reimbursed as related to contractor services.
3. When requested by the BOS to perform work that requires overnight accommodations, the County will reimburse the Contractor in accordance with the current rates specified in the Rules and Regulations applicable to State of Arizona Employee Travel Rules. The Contractor shall itemize all per diem and lodging charges.

AUTHORIZED SIGNATURE

DATE

George R. Shook, Interim Chairman

DATE AND DURATION

1. Contract Title: Property Valuation/Classification Hearing Officer and Services
2. Contract Period: From May 21, 2019 to January 14, 2020
3. Geographic Area Served: Cochise County Arizona
4. Scope of Work: Property Valuation/Classification Hearings
5. Reference: Contracting Office: Arizona State Board of Equalization
100 North 15th Avenue, Suite 130
City: Phoenix State: Arizona Zip: 85007
Telephone: (602) 364-1600

THE FOLLOWING TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE SOLICITATION AND ANY RESULTANT CONTRACT.

1. Certification:
 - 1.1. The submission of the 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, State Executive Order 75.5 or A.R.S. §41-1461 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 offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
 - 1.4. The bidder agrees to use only those materials and/or services as stated in and allowed for under the resultant contract(s) as County contract items.
2. 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 State 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 or remedies, to recover or withhold from the contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible State government customers shall not be prohibited by this paragraph.
3. 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 County. This contract shall be governed by the law of the State of Arizona, and suits pertaining to this contract shall be brought only in Federal or State Courts in the State of Arizona.
4. Legal Remedies: All Claims and controversies shall be subject to the Arizona Procurement Code §41-2611 et.al.

5. **Contract:** The contract shall be based upon the solicitation issued by the County and the offer submitted by the contractor in response to the solicitation. The offer shall substantially conform to the term, conditions, specifications and other requirements set forth within the text 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 offer shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between the County 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.
6. **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.
7. **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.
8. **Termination by the Board of Supervisors:** 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 an employee of or a 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 Chairman of the County Board of Supervisors is received by the parties to this contract, unless the notice specifies a later time.
9. **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 which may remain in effect without the invalid provision or application.
10. **Relationship of Parties:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venture, 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 pay such expenses, if any.

11. 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 State of Arizona Procurement Code is used in this contract, the definition contained in the contract shall control.
12. Assignment – Delegation: No right or interest in this contract shall be assigned by the contractor without the prior written permission of the County, and no delegation of any duty of 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.
13. Subcontracts: No subcontract shall be entered into by the contractor 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, 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.
14. Rights and Remedies: No provision in this document or in the vendor’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.
15. Warranties: Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Mere receipt of the 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.
16. Indemnification: Contractor shall indemnify, defend, and save harmless the County, from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description. Including any reasonable attorneys’ fees and/or litigation expenses, which may be brought or made against or incurred by the County on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of the contractor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in

connection with or incidental to the performance of this agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of the contractor and/or its subcontractors or claims under similar such laws or obligations. The contractor's obligation under this section shall not extend to any liability caused by the sole negligence of the County, or its employees.

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

- give 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 a default hereunder or 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.

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.

18. 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.

19. **Records:** Pursuant to provisions of title 35, Chapter 1, article 6 Arizona Revised Statutes §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 at the offices of the Auditor General, the Attorney General, and the State Purchasing Office, the County Board of Supervisors or the State Board of Equalization or any agency doing business under this contract.
20. **Advertising:** Contractor shall not advertise or publish information concerning this contract, without the prior written consent of the County. The County shall not reasonably withhold permission.
21. **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 and shall not be used or released by the contractor or any other person except with prior written permission of the County.
22. **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 in this contract.
23. **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 provisions of Title 35 of the Arizona Revised Statutes.
24. **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 this contract.
25. **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.
26. **Public Record:** All bids submitted in response to this invitation 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 for the State of Arizona Procurement Code.