

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
BEL-AIRE MECHANICAL, LLC**

THIS LINKING AGREEMENT (this “Agreement”) is entered into as of this _____ day of _____, 20____, between the City of Glendale, an Arizona municipal corporation (the “City”), and Bel-Aire Mechanical, LLC., a(n) Arizona limited liability authorized to do business in Arizona (“Contractor”), collectively, the “Parties.”

RECITALS

- A. On December 8, 2021 under S.A.V.E Cooperative Purchasing Agreement, the Maricopa County of Procurement Services entered into a contract with Contractor to purchase the goods and services described in the HVAC Service and Repair, Contract No. 220125-S (“Cooperative Purchasing Agreement”), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City’s Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City’s utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

- 1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was December 8, 2021, until the date the contract expires on November 30, 2024 unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond November 30, 2027. The initial term of this Agreement, therefore, is the period from the Effective Date of this Agreement until

November 30, 2024. The City may renew the term of this Agreement for three one-year renewal terms until the Cooperative Purchasing Agreement expires on November 30, 2027. Glendale renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed three hundred eighty-three thousand three hundred thirty-three dollars (\$383,333) annually or two million three hundred thousand dollars (\$2,300,000) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
 c/o Todd Blair
 6210 W. Myrtle Avenue, Suite 111
 Glendale, Arizona 85301
 623-930-2647
 And

Bel-Aire Mechanical, LLC.
 4201 N 47th Avenue
 Phoenix, AZ 85031
 bsoniu@belairemechanical.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

“City”

“Contractor”

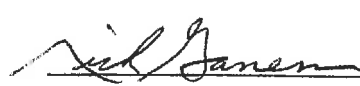
City of Glendale, an Arizona
 municipal corporation

Bel-Aire Mechanical, LLC.,
 an Arizona limited liability

By: _____

Kevin R. Phelps
 City Manager

By: _____


 Name: Nick Ganem
 Title: Vice President

ATTEST:

 Julie K. Bower (SEAL)
 City Clerk

APPROVED AS TO FORM:

 Michael D. Bailey
 City Attorney

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
BEL-AIRE MECHANICAL, LLC**

EXHIBIT A
(MARICOPA COUNTY CONTRACT NO. 220125-S
HVAC SERVICE AND REPAIR)

**LINKING AGREEMENT
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AND
BEL-AIRE MECHANICAL, LLC**

**EXHIBIT B
Scope of Work**

PROJECT

The contractor will provide HVAC services to include repair, maintenance, installation, and retrofit for heating, ventilation, air conditioning, and evaporative cooling equipment at City of Glendale facilities on an as-needed basis.

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EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

The method and amount of compensation are in accordance with Section 3 of this Agreement.

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$383,333 annually or \$2,300,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

City shall pay contractor compensation in accordance with the rates as set forth in the Maricopa County Contract No. 220125-S for HVAC Service and Repairs.

SERIAL 220125-S HVAC SERVICE AND REPAIR


DATE OF LAST REVISION: December 08, 2021 CONTRACT END DATE: November 30, 2024 ✓

CONTRACT PERIOD THROUGH NOVEMBER 30, 2024 ✓

TO: All Departments
FROM: Office of Procurement Services
SUBJECT: Contract for HVAC SERVICE AND REPAIR

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **December 08, 2021**

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.



Kevin Tyne, Chief Procurement Officer
Office of Procurement Services

EK/mm
Attach

Copy to: Office of Procurement Services
Sammi Birchard, FMD
Brad Koos, FMD
Ken Burt, FMD

(Please remove Serial 15049-S from your contract notebooks)

BEL-AIRE MECHANICAL, INC., 4201 N 47TH AVE, PHOENIX, AZ 85031

COMPANY NAME:	Bel-Aire Mechanical, Inc
DOING BUSINESS AS (dba):	
MAILING ADDRESS:	4201 N 47th Ave, Phoenix, AZ 85031
REMIT TO ADDRESS:	4201 N 47th Ave, Phoenix, AZ 85031
TELEPHONE NUMBER:	623-846-8600
FAX NUMBER:	623-846-8700
WWW ADDRESS:	www.belairemechanical.com
REPRESENTATIVE NAME:	Brandon Sonju
REPRESENTATIVE TELEPHONE NUMBER:	623-846-8600
REPRESENTATIVE EMAIL ADDRESS	bsonju@belairemechanical.com

	YES	NO	REBATE
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

NET 30 DAYS

1.0 LABOR RATES: COMMERCIAL/INDUSTRIAL				
	Item	Qty	Unit of Measure	Price
2nd Call	Regular Business Hours	1	hour	\$95.00
	After Business Hours	1	hour	\$133.00
	Weekends	1	hour	\$150.00
	Holidays	1	hour	\$150.00

2.0 LABOR RATES: RESIDENTIAL				
	Item	Qty	Unit of Measure	Price
2nd Call	Regular Business Hours	1	hour	\$90.00
	After Business Hours	1	hour	\$125.00
	Weekends	1	hour	\$150.00
	Holidays	1	hour	\$150.00

3.0 ADDITIONAL PRICING

Item	Qty	Unit of Measure	Price
Parts Materials and Components - Cost Minus Discount	1	percent	19
Parts Materials and Components - Cost Plus Percentage	1	percent	19%
Any Services Outside the Scope of Work	1	hour	\$65.00
Training	1	hour	\$65.00

BEL-AIRE MECHANICAL, INC.

4.0 SPECIAL TOOLS AND EQUIPMENT			
Machinery/equipment may be rented as additional cost and used indirectly to the HVAC industry for the performance of normal services. Include pricing only for the use and operation of owned or rented special tools and equipment that may be necessary, above and beyond the tools of the trade necessary for the performance of this contract. Additional items may be added to this list at time of bid .			
Pricing shall include rental/lease/use charge plus an administrative mark-up cost not to exceed five percent (5%) and shall also include any operating fees.			
Item	Price	Unit of Measure	Notes
Backhoe	\$	per hr.	All needed Equipment will be rented at current market rates with a 5% mark-up added
Jackhammer	\$	per hr.	
Concrete cutter	\$	per hr.	
Excavator	\$	per hr.	
Chain Hoist	\$	per hr.	
Crane	\$	per hr.	

PRICING SHEET: NIGP CODE 94155

Terms: NET 30

Vendor Number: VC0000007600

Certificates of Insurance Required

Contract Period: To cover the period ending **November 30, 2024.**

HVAC SERVICE AND REPAIR

1.0 INTENT

- 1.2 The intent of this solicitation is to provide a source for repair, maintenance, installation, and retrofit for heating, ventilation, and air conditioning (HVAC) and evaporative cooling equipment throughout Maricopa County (County) for the Facilities Management Department (FMD). Major retrofits and projects will be requested through the use of quotes from all contractors awarded to this contract, at the time of the project. Contract may be used by the County for residential and commercial/industrial services.
- 1.3 Each bidder shall be ranked, i.e. First Call, Second Call, and Third Call, etc. The contractor of record having the lowest labor rate bid for time and materials service work for normal business hours shall be called first by the requesting department. If the contractor is unable to respond in the requested time parameters, the requesting agency shall proceed to the next lowest bidder.
- 1.4 County's existing contract, Serial #15049-S will be terminated for convenience upon award of this contract.
- 1.5 Respondents to this solicitation shall identify a firm, fixed cost rate for preventive maintenance and fully burdened hourly rates for work within the scope of this contract. Respondents will also respond with an hourly rate for work outside the scope of this contract.
- 1.6 Contractor's primary point of contact for work performed will be the FMD. Other County departments may use this contract, however FMD is not responsible for payments for work performed under the direction of other County departments.
- 1.7 Other governmental entities under agreement with County may have access to services provided hereunder (see also Sections 3.18 and 3.19 below).
- 1.8 The County reserves the right to add additional contractors, at the County's sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County's needs or to ensure adequate competition on any project or task order work.
- 1.9 County reserves the right to award this contract to multiple vendors. The County reserves the right to award in whole or in part, by item or group of items, by section or geographic area, or make multiple awards, where such action serves the County's best interest.

2.0 SCOPE OF SERVICES

- 2.1 The scope of services of this solicitation includes, but is not limited to repair, maintenance, installation, and retrofit for HVAC and evaporative cooling equipment throughout County for the FMD. Locations of buildings managed by FMD can be found by visiting <https://www.maricopa.gov/2127/Facilities-Management>, "Facilities We Manage".
- 2.2 Contractor shall be responsible for the supply of all labor, supervision, materials, tools, equipment, and all effort necessary for the repairs, maintenance, retrofitting (replacement of like-for-like with the exception of technology or inadequate performance of the unit) for the following residential and commercial/industrial HVAC groups and services, including, but not limited to:
 - 2.2.1 Group 1: Residential, 1.5 ton through 20 ton units:
 - 2.2.1.1 Package air conditioning units
 - 2.2.1.2 Air conditioning compressors

- 2.2.1.2.1 Hermetic
- 2.2.1.2.2 Semi-hermetic
- 2.2.1.2.3 Open drive reciprocating
- 2.2.1.3 HVAC/split systems/remote condensing units
- 2.2.1.4 Evaporative coolers
- 2.2.2 Group 2: Commercial/Industrial, 1.5 ton through 250 ton
 - 2.2.2.1 Package air conditioning units
 - 2.2.2.2 Air washers
 - 2.2.2.3 Fan coils & air handlers
 - 2.2.2.4 Gas fired heating systems
 - 2.2.2.5 Chilled water systems
- 2.2.3 Condenser/chilled water pumps
 - 2.2.3.1 Centrifugal
 - 2.2.3.2 Submersible
 - 2.2.3.3 Vertical
 - 2.2.3.4 Turbine
- 2.2.4 Cooling towers
 - 2.2.4.1 Drift eliminators
 - 2.2.4.2 Spray nozzles
 - 2.2.4.3 Float mechanisms
 - 2.2.4.4 Drive motors, shafts, and bearings
 - 2.2.4.5 Fan and fan assemblies
- 2.2.5 Variable Air Volume (VAV) units
- 2.2.6 Associated support components:
 - 2.2.6.1 Distribution piping/plumbing including component parts
- 2.2.7 Electrical components and devices
 - 2.2.7.1 Contactors
 - 2.2.7.2 Standalone thermostats
 - 2.2.7.3 Magnetic starters
 - 2.2.7.4 Transmitters

- 2.2.8 Duct
 - 2.2.8.1 Fabrication, design, and installation
 - 2.2.8.2 Repair
 - 2.2.8.3 Distribution diffusers
- 2.2.9 Pneumatic controls
 - 2.2.9.1 Repair, replace, calibrations
 - 2.2.9.2 Repairs to the pneumatic system
- 2.2.10 Air/dirt separator units
- 2.2.11 Solar thermal systems
 - 2.2.11.1 Solar panel array
 - 2.2.11.2 Pumps
 - 2.2.11.3 Piping/plumbing including component parts
 - 2.2.11.4 Valves and Valve assemblies
 - 2.2.11.5 Glycol makeup
 - 2.2.11.6 Sensors and relays

2.3 It is the contractor's responsibility to inform FMD (or other using agency) of any updates to electrical panels; therefore, the contractor shall label and identify all electrical components and shall put the newly updated panel schedule(s) inside the modified electrical panel. The new schedule will be dated (MM/DD/YYYY) and the existing schedule shall remain in the panel behind the new schedule.

2.4 DETENTION FACILITIES SERVICES REQUIREMENTS

- 2.4.1 Contractors may be required to provide services to detention facilities. Contractors should be aware to use caution when servicing a detention facility:
 - 2.4.1.1 Contractor's service vehicle shall be secured and locked whenever a technician is not in a vehicle or accessing materials, tools, and or equipment from a vehicle.
 - 2.4.1.2 Contractor's technicians must, at all times, monitor and account for any and all tools taken into a detention facility.
 - 2.4.1.3 Contractor may be required to provide services in detention facilities in stages rather than in whole due to the nature of the facility. Contractor shall take this into consideration when preparing a quote for detention facility services.

2.5 WORK OUTSIDE THE SCOPE

Work outside the scope includes any work not normally performed in the scope of this solicitation and that can be performed by the prime contractor. If a subcontractor is used, apply mark-up as indicated in Section 2.14 - Allowable Pass-through Costs With Mark-Up Under Time And Materials Work. Work outside the scope includes, but is not limited to,

concrete cutting, underground detection, asbestos removal, or concrete removal and reinstallation.

2.6 PERFORMANCE REQUIREMENTS

- 2.6.1 Contractor must meet all Federal Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) guidelines in the proper handling and disposal of refrigerant. Contractors failing to properly handle and dispose of refrigerant may be subject to contract termination.
- 2.6.2 All service work performed by contractor shall be to a professional standard, meeting all required city building codes, and susceptible to Facilities Management staff inspection. Documentation, through an audit and feedback system of contract administration shall be used in this contract, by the FMD.
- 2.6.3 Unless pre-approved by FMD, all work shall be performed by one service technician. If needed, contractor may dispatch a helper (laborer) to aid the technician. Any additional technicians or helpers needed for a specific job must be pre-approved by the County. The invoice shall be notated with County personnel pre-approval, for example, "extra technician pre-approved by 'person's name'."
- 2.6.4 Contractor shall not make any changes to the equipment specifications, method of fabrication, or other requirements without the express prior written consent of the County. Any proposed changes shall be presented to the assigned County contact prior to the change taking effect (contact information will be provided on purchase orders).
- 2.6.5 Contractor shall utilize only original equipment manufacturer (OEM) parts, as recommended by the equipment manufacturer, for replacement or repair, and use only those materials obtained from and/or recommended by the equipment manufacturer(s) unless pre-approved in writing by the County.
- 2.6.6 Contractor shall coordinate all work schedules with the County before beginning any work which requires a utility outage or outage of equipment. Outages shall be arranged with the County in advance, if possible, and such work shall only be performed during County-approved times. The County must be notified immediately if any equipment is mistakenly taken out of service.

2.7 REPLACEMENT OR OVERHAUL OF EQUIPMENT

- 2.7.1 Equipment that has reached obsolescence or that is in need of replacement or overhaul shall be evaluated by the contractor and a written price estimate shall be presented to the County. The County may or may not approve the work, dependent on budgets and priorities, or may request competitive bids. If approved, existing equipment shall be replaced with new equipment, or, with County approval, shall be overhauled.
- 2.7.2 The County reserves the right to utilize its own sources for the purchase of new equipment or individual components. If the County exercises this right, the contractor may be given the opportunity to install these items.

2.8 CONTRACTOR QUALIFICATIONS

- 2.8.1 Contractor shall have all required licensing necessary to perform the scope of services specified herein, including, but not limited to, those required by the State of Arizona Registrar of Contractors. Proof of such shall be provided at time of bid and shall be maintained throughout the term of this contract.

- 2.8.2 Contractor should be factory authorized or able to perform full maintenance, repairs, installations for all materials and equipment utilized in the performance of this contract for repair, maintenance, installation, and retrofit for HVAC and evaporative cooling equipment.
- 2.8.3 Contractor must meet all Federal EPA and OSHA guidelines (if any) in the proper handling and disposal of special waste or contaminated materials generated by services rendered.
- 2.8.4 Required Experience
 - 2.8.4.1 Contractor shall have a minimum of five years of experience performing the work listed in the Scope of Services. Proof of such must accompany the bid packet.
 - 2.8.4.2 Contractor's firm must be in business HVAC service a minimum five years, and completely familiar with the specified requirements and methods needed for proper performance of this contract. Proof of such must accompany the bid packet and will be inspected prior to award.
 - 2.8.4.3 Contractor shall employ a minimum of five technicians qualified to perform all work and to adequately service County facilities. Contractor's technical staff shall have the following qualifications, and proof of such shall accompany the bid packet:
 - 2.8.4.3.1 Have chlorofluorocarbon (CFC) certification
 - 2.8.4.3.2 Be thoroughly trained, with a minimum of five years' experience in the field of air conditioning and heating, including Factory Certified Training

2.9 CONTRACTOR REQUIREMENTS

- 2.9.1 Contractor must maintain a minimum of five adequately stocked service vehicles. Contractor's service truck fleet and/or warehouse shall carry sufficient supply of repair parts and equipment to perform services per the scope of services presented, including those needed for routine HVAC service and repairs, and hot water boiler service and repair. Proof of such must accompany the bid packet and truck fleet may be inspected prior to award.
- 2.9.2 Contractor shall have a local shop and/or warehouse that stocks parts to keep their trucks supplied daily. As part of the County's due diligence, these requirements may be verified by FMD via a formal inspection after bid submittals and prior to bid award.
- 2.9.3 Contractor shall submit evidence of ability to provide and maintain, during the entire period of this contract, all labor, supervision, materials, tools, and equipment sufficient in number, condition, and capacity to efficiently perform the work and render the services required by this contract.
 - 2.9.3.1 Contractor shall provide evidence of appropriate labor and supervision by listing personnel and their qualifications in Attachment E – Personnel Qualifications. Attachment E shall accompany the bid packet and shall be maintained throughout the contract.
 - 2.9.3.2 Contractor shall provide evidence of their ability to furnish equipment and personnel by providing, with their bid packet, a listing of major tools, vehicles, equipment using Attachment F – Vehicle and Equipment

Listing. Attachment F shall accompany the bid packet and shall be maintained throughout the contract.

- 2.9.4 Contractor shall provide pricing for owned or rented special tools and equipment that may be necessary, above and beyond the tools of the trade necessary for the performance of this contract, on Attachment D – Pricing Sheet.
 - 2.9.4.1 “Tools of the trade” are generally considered to be vehicles, tools, and equipment (e.g., hand tools, power tools, pickup trucks, vans, ladders, scaffolding, etc.) that are normally used in the course and scope of the contractor’s business and that should be a part of a qualified contractor’s inventory. Costs related to the acquisition, use, or maintenance of tools of the trade should be included as a part of the contractor’s fully-burdened hourly labor rates and are not, under any circumstances, to be separately or directly billed to County under this contract.
 - 2.9.4.2 “Special tools and equipment” are considered to be tools and equipment (e.g., cranes, towed air compressors, dumpsters with associated tipping fees, etc.) that are not typically maintained in a contractor’s inventory, but that are leased/rented to be used when needed for a specific project/job.
- 2.9.5 Contractor shall be responsible for obtaining and transporting equipment to and from the job site. In this regard, the contractor shall:
 - 2.9.5.1 Ensure that its employees that are assigned to perform the work carry their own tools of the trade or are provided with tools normally carried by the trade on the job site.
 - 2.9.5.2 Arrange for lease or rental of any special tools and equipment needed to perform the work.
 - 2.9.5.2.1 Charges for lease or rental of special tools and equipment with associated mark-up may be directly billed to County provided that the contractor clearly identifies these items in advance, on Attachment D – Pricing Sheet, as a part of their proposal to perform the work.
 - 2.9.5.2.2 Charges for lease or rental of special tools and equipment with associated mark-up that have not been identified in advance as a part the contractor’s bid on Attachment D – Pricing Sheet may not, under any circumstances, be separately or directly billed to County under this contract, unless prior approval, in writing, has been provided by the County.
 - 2.9.5.3 Ensure that all vehicles, tools, and equipment used in performing the scope of services herein are appropriately licensed, as applicable, are in good operating condition, capable of rendering efficient, economical, and continuous service, and are equipped with necessary and required safety devices in accordance with State and Federal laws. While the County reserves the right to inspect any equipment for compliance with these requirements regarding condition, this does not relieve the contractor of the obligation to furnish conforming equipment. If any equipment is found to be deficient or non-conforming, the County shall notify the contractor who shall immediately take action to place the equipment in good operating condition at his own expense. If the contractor does not take corrective action within a reasonable time, the

County may require the immediate removal and replacement of the deficient equipment at the contractor's expense.

- 2.9.6 Contractor shall perform the work in such a way as to minimize disruption to the normal operation of the County site and building occupants.
- 2.9.7 Upon completion of work, the contractor shall clean and remove from the job site all disturbances (e.g., loose dirt, dislocated gravel, removed vegetation, footprints, old asphalt/concrete, etc.), debris, materials, and equipment associated with the work performed. County property shall be restored to the same condition as prior to start of the job.
 - 2.9.7.1 If, upon County inspection, it is found that the contractor failed to adequately clean up the site (meaning to the County's satisfaction) after work has been performed, the County will notify the contractor and the contractor will have 24 hours to clean. Should the contractor fail to clean a site to the County's satisfaction, the County reserves the right to make other arrangements to have the area cleaned, and the cost of such work shall be offset from any monies due the contractor. Costs of such work that exceed the amount of monies due the contractor shall be the responsibility of the contractor and shall be billed to the contractor.
- 2.9.8 Contractor shall perform all services in such a manner that County property is not damaged.
 - 2.9.8.1 In the event damage occurs to County property or any adjacent property due to any services performed under this contract, the contractor shall immediately notify the County representative about the damages and shall replace or repair the same at no cost to the County within 48 hours of notifying the County, or by a deadline approved by the County.
 - 2.9.8.2 If damage caused by the contractor has to be repaired or replaced by the County, the cost of such work shall be deducted from the monies due the contractor. Costs of such work that exceed the amount of monies due the contractor shall be the responsibility of the contractor and shall be billed to the contractor.
- 2.9.9 The contractor shall utilize only experienced, responsible, and capable people in the performance of the work. The County may require that the contractor remove from the job covered by this contract, any employee who endangers persons or property or whose continued employment under this contract is inconsistent with the interest of the County.
- 2.9.10 In the event the work performance of the contractor is unsatisfactory, the contractor will be notified by FMD and be given four hours to correct the work. Labor for all re-work will be at no cost to the County. Any additional parts replaced shall be billed at contract pricing.
- 2.9.11 Contractor must have a business facility within 50 miles of 401 W. Jefferson Street, Phoenix, AZ 85003.
- 2.9.12 The County may inspect contractor facilities prior to award and reserves the right to make award based on the condition and quality of contractor facilities and equipment.
- 2.9.13 Contractors bidding on this solicitation may visit worksites to determine conditions that would affect prices and work performance. As some sites do have internal restrictions, it may be necessary for a site visit to be scheduled.

- 2.9.14 To avoid the potential transmission of COVID-19 in any County-owned or -leased facilities, prior to entering, or when on any County facility, property, building, or structure, all contractors, their employees, and subcontractors may be required to wear a face mask/face covering. Attendees who do not adhere to County requirements may be prohibited from visiting County site(s) and/or from entering County facilities, properties, buildings, or structures. The County is not responsible for providing face masks or face coverings.
- 2.9.15 All vehicles used by contractor, including personal transportation vehicles, shall be clearly identified with the name of the company on each side of the vehicle. The letters shall be of such size that they are distinguishable at a reasonable distance.
- 2.9.16 All employees of the contractor shall wear a company uniform identified with the company name/logo and consisting of a minimum of one of the following:
- Shirt/blouse
 - Vest
 - Cap
- 2.9.17 Only authorized employees of the contractor are allowed on County work sites. contractor's employees are NOT to be accompanied in their work area by acquaintances, family members, assistants, or any other person unless said person is an authorized employee of the contractor.
- 2.9.18 All work must comply with EPA, OSHA, and any state, County, or local regulations in effect at each service location. Contractor shall adhere to all regulations, rules, ordinances, and standards set by Federal, state, County, and municipal governments pertaining to safety on the job site. If the contractor is found not to be in compliance with Federal, state, County, and/or municipal safety rules, ordinances, policy, procedure, or codes, the County may, in accordance with the "Suspension of Work" clause of the contract, suspend the work without cost to the County until such non-compliant issues are rectified to the satisfaction of the using agency. Continued non-compliance may result in termination of the contract.
- 2.9.19 Contractor shall be responsible for sourcing all HVAC parts/components/units necessary in the repair/replacement of HVAC systems. Exceptions are if in the best interest of the County, to utilize County's own HVAC commodity contracts to source said supplies.
- 2.9.20 County may conduct audits and performance reviews throughout the term of a contract to ensure contract compliance by the contractor.
- 2.10 HOURS OF SERVICE
- 2.10.1 Contractor shall provide telephone access 24 hours per day, 7 days per week (24/7), 365 days per year, and respond to a call for services within 30 minutes of receipt of a service request received via phone or email.
- 2.10.2 Services shall be available 24/7, 365 days per year.
- 2.10.3 Contractor shall respond on-site to begin work within four hours of receipt of a service request unless arrangements have been made for a later date/time with the County per the work order or notice to proceed.
- 2.10.4 The four hour on-site response time for non-emergency calls shall carry over to the next working day if called into contractor's office after 2:00 p.m. MST. The contractor will be required to begin work by 8:00 a.m. MST the following day.

- 2.10.5 Contractors shall respond to emergency service requests immediately and report on-site to begin work within two hours of an emergency service call request regardless of the day/time of day, weekend, or holiday.
 - 2.10.5.1 Regular hours are between the hours of 6:00 a.m. and 6:00 p.m., MST, Monday through Friday, excluding County holidays.
 - 2.10.5.2 After hours are between the hours of 6:00 p.m. and prior to 6:00 a.m., MST, Monday through Friday.
 - 2.10.5.3 Weekends are anytime on a Saturday or a Sunday.
 - 2.10.5.4 Holidays are County holidays.
 - 2.10.5.5 The Facilities Management Parts Warehouse is open for deliveries between the hours of 7:00 a.m. to 3:00 p.m. MST, weekdays, except for County holidays.
 - 2.10.5.6 Due to the nature of work in public buildings, FMD will dictate during what service hours the contractor shall provide services.

2.11 BUILDING ACCESS

- 2.11.1 The contractor may be provided access to County facilities at the discretion of FMD. Keys, badges, or access cards will be provided per the following guidelines:
 - 2.11.1.1 contractor employees may sign out a set of keys (all looped on a single key ring) upon arrival at site, and must turn in the key set at the end of the day or after completion of duties (as arranged with the County) unless they are issued a permanent key; or
 - 2.11.1.2 permanent keys may be provided to contractor employees on a case-by-case basis; or
 - 2.11.1.3 badges or access cards may be provided to contractor employees for access to the job site.
- 2.11.2 Should an employee leave the contractor's workforce, contractor shall immediately notify the County and all keys, badges, and access cards must be returned to the County.
- 2.11.3 The contractor shall notify the County within 24 hours if any keys, badges, or access cards are lost, misplaced, stolen, or otherwise not within the contractor's control.
- 2.11.4 Once this agreement is complete, expired, or terminated, the contractor shall immediately return all keys, badges, or access cards to the County.
- 2.11.5 Failure to comply with these requirements may result in the contractor being assessed the cost of replacing keys, badges, or access cards and any associated cost to ensure the security of County facilities including, but not limited to, re-keying the entire building at the expense of the contractor.

2.12 TIME AND MATERIALS WORK AND PROJECT WORK

- 2.12.1 All work shall be completed as Time & Material (T&M) work and/or project work. T&M and project work thresholds shall apply as outlined in the scope of this contract. If the contract is awarded to a single vendor, all work with estimated costs of \$10,000 or more may be performed as T&M work, or at the County's option, may be

performed as project work if doing so is more advantageous to the County. Contract award to multiple contractors will result in a call order (first, second, third, etc.) for T&M work. The call order will be determined by respondents lowest average hourly pricing for labor found in the bid responses on Attachment D – Pricing Sheet.

2.12.2 Contractor is responsible for confirming the appropriate billing method with the FMD project manager (or other using department) prior to start of work.

2.12.3 A request for a price estimate does not imply that work may be billed as a project.

2.12.4 Time and Materials Work

2.12.4.1 Cost estimates for work, which will not constitute a firm fixed quote, may be requested from contractors by County project managers. Work with estimated costs below **\$10,000** may be performed either as T&M work or may, at the County's option, be bid among the contractors awarded in the contract.

2.12.4.2 The County reserves the right to adjust the **\$10,000** T&M threshold if such adjustment is deemed to be in the County's best interest.

2.12.4.3 Regardless of value, repairs may be completed under a T&M work designation except when it is deemed in the County's best interest to bid among contractors awarded in the contract.

2.12.4.4 Contractor will price T&M services at the contractor's "most favored customer" pricing/discounts under similar conditions (e.g., order sizes, types, complexities, geographical regions, etc.). Contractors will provide County with a full breakdown estimate of pricing prior to County issuance of a work order/project number.

2.12.4.5 T&M hourly labor rates shall include all wages, indirect costs, overhead, profit, coordination time, general and administrative expenses, and profit. Fractional parts (15 - minute intervals) of an hour shall be payable on a prorated basis.

2.12.4.6 Contractor shall only bill County for actual hours worked. County shall not pay for contractor's travel or mobilization time, lunch breaks, traffic delays, etc. Additionally, contractor shall not bill County for time spent retrieving repair parts and equipment that contractor has failed to have on hand when performing anticipated services per the specifications herein.

2.12.4.7 All T&M work shall only require the County to issue a work order/project number to a contractor as authorization to proceed. The work order/project numbers shall be included on the vendor invoice.

2.12.4.8 Contractor must have availability for 24/7 emergency T&M response.

2.12.4.9 T&M repairs may take place in response to emergency calls.

2.12.5 Project Work

2.12.5.1 Project work shall mean work performed, which, in the best interest of the County, would be more advantageous to be performed as "all inclusive," as opposed to time and materials. The contractor assigned to this contract shall be provided a request for project quote containing a detailed scope of work or shall meet with the County agency, discuss what needs to be done, and present the County with a written quote.

- 2.12.5.2 Project work shall be work that has been planned and has estimated costs **in excess of \$10,000**. The County reserves the right to adjust the **\$10,000** project threshold if deemed in the County's best interest.
- 2.12.5.3 Exceptions to the T&M/project work threshold shall be emergencies that arise and must be dealt with immediately without the time for project quotes.
- 2.12.5.4 County's project quote sheet will contain the following information:
 - 2.12.5.4.1 Contract serial number and name
 - 2.12.5.4.2 Name and address of site
 - 2.12.5.4.3 FMD site number
 - 2.12.5.4.4 Detailed scope of work
 - 2.12.5.4.5 Other information relative to the scope of work
 - 2.12.5.4.6 Project start/finish timeline (optional)
 - 2.12.5.4.7 Check box for "will quote" or "will not quote" the project
 - 2.12.5.4.8 Signature line for both the County and the contractor
- 2.12.5.5 After site review of the project, all contractors listed under this contract must submit the project quote sheet back to the requestor, either with acceptance and a firm price, or indication that contractor declines the project with a written reason as to why the project was declined. Contractors who have declined project work a minimum of three times during a six-month period shall be required to attend a meeting with the Office of Procurement Services and FMD to discuss consideration for default of contract, as this is indicative of the contractor's desire not to do business with the County.
- 2.12.5.6 The submitted project price quote is to be all-inclusive. That is, any cost overruns to be absorbed by the contractor, or cost savings to be additional profit for the contractor. Exceptions to this are changes requested by the County that incur higher project cost and longer delays. All change order requests to a project must be in writing, referencing the contract serial number, and must be approved by FMD (or County user agency if request was made by them) prior to any authorization to proceed. The contractor who fails to acquire approved change orders in writing runs the risk of incurring these additional costs without payment.
- 2.12.5.7 County may choose to negotiate with the contractor. The responding contractor shall be required to submit all back-up documentation (line item material costs, labor hours with rates, etc.) to the FMD project manager within three business days of a request. This documentation shall include all subcontractor documentation. If an agreement cannot be reached between the County and the contractor, either party may terminate the discussions and the County may seek to re-bid and/or deliver the project through other procurement options.
- 2.12.5.8 Dependent upon the complexity/nature of the project, a predetermined and/or pre-identified mandatory or optional site meeting may be held to ensure all contractors are aware of important issues regarding the

project. Contractors who do not show-up to a mandatory site meeting and who submit a project quote will be considered "non-responsive".

- 2.12.5.9 Contractors will be compensated for additional work requested by the County that is not detailed in the scope of work in a project quote using the labor rates bid by the contractor on the pricing page only if such work has been pre-approved, in writing, by the County. Contractors may not be compensated for additional work performed that has not been pre-approved, in writing, by the County.
- 2.12.5.10 Upon project completion, contractor will provide County with a closeout package containing documents that County has identified in the in the project bid. Requested documents may include, but are not limited to, warranty letters, product list, operation and maintenance manuals, and a vendor list.

2.13 TIME AND MATERIALS CONSUMABLES

Contractor must provide all equipment, consumable shop supplies (rags, cleaners, solvents, gases, etc.), miscellaneous parts (screws, bolts, nuts, small items, etc.), and tools necessary to perform all required services. Contractor may be allowed a one-time consumable charge of up to \$25 per work order to cover these type of expenses, at the County's discretion. Anything beyond the \$25 limit shall be provided at the contractor's own expense.

2.14 ALLOWABLE PASS-THROUGH COSTS WITH MARK-UP UNDER TIME AND MATERIALS WORK

2.14.1 Authorized costs which are not listed on the pricing page shall be paid for by the contractor and invoiced to the County. Supporting documents for any allowable pass-through cost shall accompany each final invoice. All pass-through supporting documents must be itemized for labor, materials, and taxes. The following fees will be allowed a **five percent** administrative mark-up:

2.14.1.1 Use of subcontractors: The use of labor by subcontractors performing any work not normally performed in the scope of repair, maintenance, installation, and retrofit for HVAC and evaporative cooling equipment, and that cannot be performed by the prime contractor (e.g. plumbing, electrical, structural, and rigging, etc.) and that may require specialized licensing and/or certification. Prime contractor shall be responsible for ensuring that subcontractors have all proper documentation as required by the County. Use of subcontractors requires prior written approval from the County.

2.14.1.1.1 Prime contractor shall be responsible for ensuring that subcontractors have all proper documentation as required by the County. Use of subcontractors requires prior written approval from the County.

2.15 ALLOWABLE PASS-THROUGH COSTS WITH NO MARK-UP UNDER TIME AND MATERIALS WORK

2.15.1.1 Equipment and tool leases/rentals for unique County requirements: Pricing will be charged at the rate specified in the bidder response on Attachment D – Pricing Sheet (per project or T&M job) with no mark-up.

2.15.1.1.1 Contractors shall receive prior approval from the County, in writing, for tools or equipment rented or charged on a per use basis by contractors while conducting County business.

2.15.1.1.2 Operating costs for rented equipment, which include a condition that equipment only be operated by an employee of the rental company, are allowable at the operator rate designated by the rental company. Rental/Operating costs shall be paid by the contractor and invoiced to the County with no mark-up.

2.15.1.2 Permits: Any permits related to the performance of County work shall be obtained by the contractor. Permit costs shall be paid by the contractor and invoiced to the County with no mark-up.

2.15.1.3 Dump fees: Any dump fees incurred by the contractor related to work performed for the County shall be paid by the contractor and invoiced to the County with no mark-up.

2.16 TRIP CHARGE

2.16.1 One-time trip charges of \$50 (one charge per work order) are permitted when T&M work is requested at the following sites only:

2.16.1.1 MCSO Lake Aid Stations (Apache, Bartlett, Blue Point, Canyon, and Saguaro)

2.16.1.2 County offices located in Gila Bend, AZ

2.16.1.3 County offices located in Buckeye, AZ

2.16.1.4 County offices located in Aguila, AZ

2.16.2 Only one trip charge may be charged per service call.

2.16.3 If the contractor arrives onsite and is unable to locate a County representative familiar with the work or unable to gain access to the work site, the contractor may only bill for a trip charge. The contractor is not authorized to incur nor will the County accept billing for any labor charges.

2.17 ASBESTOS AND HAZARDOUS CONDITIONS ABATEMENT

2.17.1 Contractor shall notify the County immediately of any concerns regarding asbestos or other hazardous conditions.

2.17.2 Any asbestos or other hazardous conditions discovered on the site that would impact the repairs must be abated through a licensed asbestos (or other hazardous condition) abatement contractor who must provide County with air quality and disposal certificates. Abatement subcontracting can be coordinated either by the contractor or the County.

2.18 DEAD END CHARGE

If the contractor is unable to locate a County representative familiar with scheduled work or is unable to gain access to the work site, the contractor shall call the County Boiler Room (602-506-3310). A boiler room technician will give the contractors further instruction at the time work is to be performed. If the contractor is delayed or turned away after receiving further instructions from the boiler room technician, a \$50 building access trip charge shall be authorized by the County.

2.19 CANCELLATION COST

2.19.1 Any scheduled work cancelled without a minimum of 48 hours prior notice to the County will be rescheduled with the contractor and is subject up to a 25 percent reduction of the cost to the County.

2.19.2 If the contractor fails to show up as scheduled without contacting the County to reschedule the work, or cancels without providing 24 hour notice, the contractor may be subject to termination of this contract for default.

2.20 SALVAGE

Salvage and trade-in rights shall be evaluated on a project-by-project basis by the County and shall be determined prior to incorporation in the contractor's bid price. Salvageable materials without pre-approved contractor salvage rights shall be securely stored and are not to be transported off the site without written permission from the County. If contractor is given salvage rights, salvageable materials shall be removed daily. On-site storage of contractor's salvaged materials is not permitted.

3.0 PURCHASING REQUIREMENTS

3.1 DELIVERY REQUIREMENTS

3.1.1 Delivery shall be F.O.B. Destination Freight Prepaid.

3.1.2 Delivery is desired as soon as possible. Details shall be as stipulated on the purchase order. It shall be the contractor's responsibility to meet the proposed delivery requirements.

3.1.3 Contractor shall notify the County representative listed on the order if the requested delivery date and/or the anticipated lead time cannot be met.

3.1.4 Failure to communicate to County changes in the order status may result in default proceedings.

3.1.5 Delivery shall be made to the County no later than 3:00 p.m. MST before the fifth calendar day after order is received unless prior arrangements have been made and approved, in writing, by the County.

3.1.6 Exceptions to the delivery schedule will be special-order items that must be identified by the contractor to the County and approved in writing by the County.

3.1.7 County reserves the right to obtain material on the open market in the event vendors fail to make delivery of materials, and will charge any price differential to the vendor.

3.1.8 Delivery will be made to the following address during the receiving hours of 7:00 a.m. - 3:00 p.m. MST during normal County business days:

FACILITIES MANAGEMENT DIVISION (FMD) WAREHOUSE
2401 S. 28th Dr.
Phoenix, AZ 85009

Warehouse Manager: 602-506-2501

Warehouse Specialist: 602-506-1935

3.2 SHIPPING TERMS

- 3.2.1 Bid price(s) and terms shall be F.O.B. Destination Freight Prepaid (to include all freight delivery and unloading costs), by the most economical method, to the County's warehouse, or a different location(s) as stipulated on the purchase order, or as agreed upon, in writing, between the contractor and the County. All delivery locations are within Maricopa County.
- 3.2.2 Standard shipping of goods shall arrive within five business days of order placement.
- 3.2.3 Shipping costs totaling less than \$50 should be considered in the contractor's mark-up as bid in response to the contract solicitation. Shipments which contain only County goods, and which cost \$50 or more may be reimbursed to the contractor as a pass-through cost with no mark-up when provided with the invoice back-up documentation.
- 3.2.4 If the County determines that expedited delivery or other alternate shipping is required, it shall notify the contractor. The contractor shall determine any additional costs associated with such delivery terms and communicate that cost, in writing, to the County as soon as costs are known.
- 3.2.5 The County shall not advise the contractor to proceed with an expedited shipment until acceptable terms are agreed upon and a purchase order is issued. Upon agreeing to the additional costs, the County shall advise the contractor to proceed.
- 3.2.6 Upon receipt of material(s) and invoicing, the County shall ensure that any additional charges are in compliance with, and do not exceed, agreed to costs. The County shall retain all documents related to these costs within the agency purchase file.
- 3.2.7 Contractor is responsible for shipping and handling fees related to returned items when the items have been ordered by the contractor.

3.3 SHIPPING DOCUMENTS

A packing list or other suitable shipping document shall accompany each shipment and shall include the following:

- 3.3.1 Contract serial number
- 3.3.2 Contractor's name and address
- 3.3.3 Department name and address
- 3.3.4 Department purchase order number
- 3.3.5 A description of product(s) shipped, including item number(s), quantity(ies), number of containers and package number(s), as applicable

3.4 OPERATING MANUALS

Upon delivery of services, contractor shall provide comprehensive instructional manuals, operational manuals, service manuals, and schematic diagrams, if required by the department.

3.5 INSTALLATION

Contractor shall be responsible to install and present for inspection all services and equipment in a complete and ready-for-use condition with all components functioning, cleaned and tested. Contractor's price shall include delivery and installation of all equipment in complete operating condition.

3.6 TECHNICAL TRAINING TO COUNTY STAFF

3.6.1 Contractor may be required to provide technical expertise training in HVAC services. Training requested may be for old or new technology.

3.6.2 Contractor shall be given advance notice to prepare, research, and schedule staff in order to provide an adequate presentation. The cost of for training shall be line item priced in the pricing section of the contract. Exceptions: Equipment units purchased under project work shall be specified in the job scope to include training.

3.6.3 Training sessions shall be provided upon request by applicable County agencies.

3.6.4 Training shall be held at a County facility unless it is deemed necessary for the training to take place at contractor's facility.

3.6.5 Technical training shall be performed during regular business hours.

3.6.6 Contractor shall provide all training aids (e.g., service manuals, mock-up equipment; etc.).

3.6.7 County, under a separate purchase order, may purchase service manuals.

3.7 TESTING

Unless otherwise specified, services and related materials purchased will be inspected by the department to ensure they meet the quality and quantity requirements of the specifications. When applicable and deemed necessary by the County, samples of the materials may be taken at random from stock received for submission to a commercial laboratory or other appropriate agency for analysis and tests to determine whether the materials conform in all respects to the specifications. In cases where commercial laboratory reports determine that the materials do not meet the specifications, the expense of such analysis shall be borne by the contractor.

3.8 ACCEPTANCE

Upon completion, services shall be deemed accepted and the warranty period shall begin. Successful service delivery shall be defined as a) material(s)/equipment is installed (as necessary) and fully operational; and b) the department has deemed all service/work completed, including but not limited to any inspection, repair, installation, design, development, deployment, operation, and initial training, (as applicable). Additionally, all documentation shall be completed prior to final acceptance.

3.9 WARRANTY

3.9.1 All services furnished under this contract shall conform to the requirements of this contract.

3.9.2 Service and/or Repair Warranty

3.9.2.1 The warranty shall cover all parts and labor for a period of one year from formal acceptance by the County. Any manufacturer warranty beyond one year shall be passed on to the County.

3.9.2.2 Contractor shall indicate on the price sheet the duration of the warranty and any applicable limitations or conditions which may apply.

3.9.2.3 Contractor agrees that it will, at its own expense, provide all labor and parts required to remove, repair or replace, and reinstall any such defective workmanship and/or materials which becomes or is found to be defective during the term of this warranty. Contractor shall guarantee the services to be supplied comply with all applicable regulations.

3.9.3 Project and/or New Installation Warranty

Project and/or new installation warranty shall cover all parts and labor for a period of one year from formal acceptance by the County. Any manufacturer warranty beyond one year shall be passed on to the County.

3.10 FACILITIES

During the course of this contract, the County may provide the contractor and contractor's personnel adequate workspace for consultants and such other related facilities as may be required by contractor to carry out its obligation enumerated herein.

3.11 USAGE REPORT

Contractor shall furnish the County a usage report upon request delineating the acquisition activity governed by the contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit of measure.

3.12 BACKGROUND CHECK

Bidders/proposers need to be aware that they may be required to pass multiple background checks (e.g., Sheriff's Office, County Attorney's Office, Courts, as well as County general government) to determine if the respondent is acceptable to do business with the County. This applies to, but is not limited to, the company, subcontractors, and employees. The failure to pass these checks may deem the respondent non-responsible.

3.13 INVOICES AND PAYMENTS

3.13.1 Payment terms will be calculated based on the date a properly completed invoice is received by the County.

3.13.2 Contractors shall provide the County with invoices no later than 14 days after services and delivery of goods are completed and accepted by the County rendered final.

3.13.3 Contractor shall submit one legible copy of their detailed invoice before payment(s) will be made. Incomplete invoices will not be processed. At a minimum, the invoice must provide the following information:

3.13.3.1 Company name, address, and contact information

3.13.3.2 County bill-to name and contact/requestor information

3.13.3.3 Building name and building number

3.13.3.4 County purchase order number (if applicable)

3.13.3.5 Contract serial or e-procurement platform agreement number (if applicable)

3.13.3.6 Maximo (FMD) service call number

- 3.13.3.7 Work order/project number (if applicable)
 - 3.13.3.8 Invoice number and date
 - 3.13.3.9 Payment terms as stated in the agreement (if applicable)
 - 3.13.3.10 Date of service or delivery (for project work: use "completion date")
 - 3.13.3.11 Arrival and completion time (if applicable)
 - 3.13.3.12 Description of purchase (product or services)
 - 3.13.3.13 Labor breakdown: rate per hour x no. of hours by personnel type
 - 3.13.3.14 Material breakdown: itemized parts list to contain unit price x quantity, indicating mark-ups as contracted)
 - 3.13.3.15 Extended price
 - 3.13.3.16 Expedited shipping cost (pre-approved by the County)
 - 3.13.3.17 Freight (if applicable)
 - 3.13.3.18 Total amount due with tax amounts separated (Time and Materials work). (On a separate line, must clearly indicate the tax rate being applied).
- 3.13.4 Time and material commodities must be billed as a separate line item on the invoice.
- 3.13.5 Billable Parts Pricing:
- 3.13.5.1 All parts sold to the County MUST be itemized and priced in one of two formats:
 - 3.13.5.1.1 priced separately as contractor's cost, then cost + percentage price (i.e., \$25.00 [contractor's cost] \$30.00 [cost + percentage]); or
 - 3.13.5.1.2 priced singularly (contractor's cost + percentage, i.e., \$30.00), with a statement at the bottom of invoice that states "The above parts pricing reflects XX percent over cost."
 - 3.13.5.2 County retains the right to refuse to pay for incorrectly invoiced parts until correct invoicing is submitted by the contractor.
- 3.13.6 Invoicing for project work must contain:
- 3.13.6.1 Contract serial number
 - 3.13.6.2 Purchase order number (if used)
 - 3.13.6.3 Terms as bid
 - 3.13.6.4 Description of work performed
 - 3.13.6.5 Location of job site and FMD site number
 - 3.13.6.6 Project cost as quoted
 - 3.13.6.7 Applicable construction tax if required (65 percent of retail tax rate)
 - 3.13.6.8 Grand total
 - 3.13.6.9 The project quote sheet and all change orders shall be attached to the invoice

- 3.13.7 Invoicing that does not have all the required information as listed above, will be sent back for corrections, delaying payment to the contractor.
- 3.13.8 Problems regarding billing or invoicing shall be directed to the department as listed on the purchase order.
 - 3.13.8.1 FMD questions regarding billing or invoicing should go to FMD accounts payable (FMD-AccountsPayable@mail.maricopa.gov).
- 3.13.9 Payment shall only be made to the contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After contract award, the contractor shall complete the Vendor Registration Form accessible through the County Department of Finance Vendor Registration website at <https://www.maricopa.gov/5169/Vendor-Information>.
- 3.13.10 Discounts offered in the contract shall be calculated based on the date a properly completed invoice is received by the County.
- 3.13.11 EFT payments to the routing and account numbers designated by the contractor shall include the details on the specific invoices that the payment covers. Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.14 PRICES

Contractor warrants that prices extended to County under this contract are no higher than those paid by any other customer for these or similar services.

3.15 APPLICABLE TAXES

- 3.15.1 It is the responsibility of the contractor to determine any and all applicable taxes and include those taxes in their proposal. The legal liability to remit the tax is on the entity conducting business in Arizona. Tax is not a determining factor in contract award.
- 3.15.2 The County will look at the price or offer submitted and will not deduct, add, or alter pricing based on speculation or application of any taxes, nor will the County provide contractor any advice or guidance regarding taxes. If you have questions regarding your tax liability, seek advice from a tax professional prior to submitting your bid. You may also find information at <https://www.azdor.gov/Business.aspx>. Once your bid is submitted, the offer is valid for the time specified in this solicitation, regardless of mistake or omission of tax liability. If the County finds over payment of a project due to tax consideration that was not due, the contractor will be liable to the County for that amount, and by contracting with the County agrees to remit any overpayments back to the County for miscalculations on taxes included in a bid price.
- 3.15.3 Tax Indemnification: Contractor and all subcontractors shall pay all Federal, state, and local taxes applicable to their operation and any persons employed by the contractor. Contractor shall, and require all subcontractors to, hold the County harmless from any responsibility for taxes, damages, and interest, if applicable, contributions required under Federal and/or State and local laws and regulations, and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security, and Workers' Compensation. Contractor may be required to establish, to the satisfaction of County, that any and all fees and taxes due to the City or the State of Arizona for any license or transaction privilege taxes, use taxes, or similar excise taxes are currently paid (except for matters under legal protest).

3.16 PERFORMANCE

It shall be the contractor's responsibility to meet the proposed performance requirements. The County reserves the right to obtain services on the open market in the event the contractor fails to perform, and any price differential will be charged against the contractor.

3.17 POST AWARD MEETING

Contractor may be required to attend a post-award meeting with the department to discuss the terms and conditions of this contract. This meeting will be coordinated by the procurement officer of the contract.

3.18 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (SAVE)

The County is a member of the SAVE cooperative purchasing group. SAVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the SAVE Cooperative Purchasing Agreement, and with the concurrence of the successful respondent under this solicitation, a member of SAVE may access a contract resulting from a solicitation issued by the County. If you do not want to grant such access to a member of SAVE, state so in your bid. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this bid. The County assumes no responsibility for any purchases by using entities.

3.19 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPAs)

County currently holds ICPAs with numerous governmental entities. These agreements allow those entities, with the approval of the contractor, to purchase their requirements under the terms and conditions of the County contract. It is the responsibility of the non-County government entity to perform its own due diligence on the acceptability of the contract under its applicable procurement rules, processes, and procedures. Certain governmental agencies may not require an ICPA and may utilize this contract if it meets their individual requirements. Other governmental agencies may enter into a separate Statement of Work with the contractor to meet their own requirements. The County is not a party to any uses of this contract by other governmental entities.

3.20 VOLUNTARY EMPLOYEE DISCOUNTS

3.20.1 Contractors may voluntarily offer discounts to County employees for products or services provided under this contract. Whether a contractor offers or does not offer an employee discount is not a factor considered in the evaluation of responses to this solicitation.

3.20.2 Any discount offered is part of a commercial transaction between the contractor and individual County employees and the County is not a party to the transaction. Any disputes or issues arising from an individual commercial transaction between the contractor and an individual County employee is a matter between the contractor and the employee. If a discount is offered, the terms will be announced to County employees.

4.0 CONTRACTUAL TERMS & CONDITIONS**4.1 CONTRACT TERM**

This Invitation for Bids is for awarding a firm, fixed-price purchasing contract to cover a term of three years.

4.2 OPTION TO RENEW

The County may, at its option and with the concurrence of the contractor, renew the term of this contract up to a maximum of three additional years, (or at the County's sole discretion, extend the contract on a month-to-month basis for a maximum of six months after expiration). Contractor shall be notified in writing by the Office of Procurement Services of the County's intention to renew the contract term at least 60 calendar days prior to the expiration of the original contract term.

4.3 CONTRACT COMPLETION

In preparation for contract completion, the contractor shall make all reasonable efforts for an orderly transition of its duties and responsibilities to another provider and/or to the County. This may include, but is not limited to, preparation of a transition plan and cooperation with the County or other providers in the transition. The transition includes the transfer of all records and other data in the possession, custody, or control of the contractor that are required to be provided to the County either by the terms of this agreement or as a matter of law. The provisions of this clause shall survive the expiration or termination of this agreement.

4.4 PRICE ADJUSTMENTS

4.4.1 All prices shall be held firm for the initial term of the contract unless otherwise authorized in writing by the Office of Procurement Services.

4.4.2 Any requests for reasonable price adjustments must be submitted 60 calendar days prior to the contract expiration. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey. If County agrees to the adjusted price terms, County will issue written approval of the change and provide an updated version of the contract. The new change shall not be in effect until the date stipulated on the updated version of the contract.

4.5 INDEMNIFICATION

4.5.1 To the fullest extent permitted by law, and to the extent that claims, damages, losses, or expenses are not covered and paid by insurance purchased by the contractor, the contractor shall defend, indemnify, and hold harmless the County (as Owner), its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including, but not limited to attorneys' fees, court costs, expert witness fees, and the costs and attorneys' fees for appellate proceedings) arising out of, or alleged to have resulted from, the negligent acts, errors, omissions, or mistakes relating to the performance of this contract.

4.5.2 Contractor's duty to defend, indemnify, and hold harmless the County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment of, or destruction of tangible property, including loss of use resulting therefrom, caused by negligent acts, errors, omissions, or mistakes in the performance of this contract, but only to the extent caused by the negligent acts or omissions of the contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.

4.5.3 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this section.

4.5.4 The scope of this indemnification does not extend to the sole negligence of County.

4.6 INSURANCE

4.6.1 Contractor, at contractor's own expense, shall purchase and maintain, at a minimum, the herein stipulated insurance from a company or companies duly licensed by the State of Arizona and possessing an AM Best, Inc. category rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

4.6.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this contract.

4.6.3 In the event that the insurance required is written on a claims-made basis, contractor warrants that any retroactive date under the policy shall precede the effective date of this contract and either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

4.6.4 Contractor's insurance will be primary insurance as respects County, and any insurance or self-insurance maintained by County will not contribute to it.

4.6.5 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

4.6.6 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

4.6.7 The insurance policies required by this contract, except Workers' Compensation and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials, and employees as additional insureds.

4.6.8 The policies required hereunder, except Workers' Compensation and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials, and employees for any claims arising out of contractor's work or service.

4.6.9 If available, the insurance policies required by this contract may be combined with Commercial Umbrella Insurance policies to meet the minimum limit requirements. If a Commercial Umbrella insurance policy is utilized to meet insurance requirements, the Certificate of Insurance shall indicate which lines the Commercial Umbrella Insurance covers.

4.6.9.1 Commercial General Liability

Commercial General Liability (CGL) insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The

policy shall include coverage for premises liability, bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provisions which would serve to limit third-party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

4.6.9.2 Automobile Liability

Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to any of the contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the contractor's work or services or use or maintenance of the premises under this contract.

4.6.9.3 Workers' Compensation

4.6.9.3.1 Workers' Compensation insurance to cover obligations imposed by Federal and State statutes having jurisdiction of contractor's employees engaged in the performance of the work or services under this contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

4.6.9.3.2 Contractor, its subcontractors, and sub-subcontractors waive all rights against this contract and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or Commercial Umbrella Liability insurance obtained by contractor, its subcontractors, and its sub-subcontractors pursuant to this contract.

4.6.9.4 Environmental/Pollution

Contractor shall maintain Commercial General Liability Insurance (CGL) and, if necessary, Commercial Umbrella Insurance with a limit of not less than \$2,000,000 for each occurrence with a \$4,000,000 Products/Completed Operations Aggregate and a \$4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations, environmental and pollution damage, and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this contract.

4.6.9.5 Certificates of Insurance

4.6.9.5.1 Prior to contract award, contractor shall furnish the County with valid and complete certificates of insurance, or formal endorsements as required by the contract in the form provided by the County, issued by contractor's insurer(s), as evidence that policies providing the required coverage, conditions, and limits required by this contract are in full force and effect. Such certificates shall identify this contract number and title.

4.6.9.5.2 In the event any insurance policy(ies) required by this contract is (are) written on a claims-made basis, coverage shall extend for two years past completion and acceptance of contractor's work or services and as evidenced by annual Certificates of Insurance.

4.6.9.5.3 If a policy does expire during the life of the contract, a renewal certificate must be sent to County 15 calendar days prior to the expiration date.

4.6.9.5.4 Certificates of Insurance shall identify Maricopa County as the certificate holder as follows:

Maricopa County
c/o Risk Management
301 W Jefferson St, Suite 910
Phoenix, AZ 85003

4.6.9.6 Cancellation and Expiration Notice

Applicable to all insurance policies required within the insurance requirements of this contract, contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without 30 calendar days prior written notice to Maricopa County. Contractor must provide notice to Maricopa County, within two business days of receipt, if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to Maricopa County Office of Procurement Services and shall be mailed or hand delivered to 160 South 4th Avenue, Phoenix, AZ 85003, or emailed to the procurement officer noted in the solicitation.

4.7 FORCE MAJEURE

4.7.1 Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this contract, if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes include, but are not limited to acts of God/nature (including fire, flood, earthquake, storm, hurricane, or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, and interruption or failure of electricity or telecommunication service, and pandemic.

4.7.2 Each as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

4.7.3 The party asserting Force Majeure as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

4.8 ORDERING AUTHORITY

Any request for purchase shall be accompanied by a valid purchase order issued by a County department or directed by a Certified Agency Procurement Aid (CAPA) with a purchase card for payment.

4.9 AVAILABILITY OF FUNDS

4.9.1 The provisions of this contract relating to payment shall become effective when funds assigned for the purpose of compensating the contractor as herein provided are actually available to County for disbursement. The County will be the sole judge and authority in determining the availability of funds under this contract. County will keep the contractor fully informed as to the availability of funds.

4.9.2 If any action is taken by any state agency, Federal department, or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this contract. In the event of termination, County will be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this contract. County will give written notice of the effective date of any suspension, amendment, or termination under this section, at least 10 days in advance.

4.10 PROCUREMENT CARD ORDERING CAPABILITY

County may opt to use a procurement card (VISA or Mastercard) to make payment for orders under this contract.

4.11 INTERNET ORDERING CAPABILITY

It is the intent of Maricopa County to use the Internet to communicate and to place orders under this contract.

4.12 NO MINIMUM OR MAXIMUM PURCHASE OBLIGATION

This contract does not guarantee any minimum or maximum purchases will be made. Orders will only be placed under this contract when the County identifies a need and proper authorization and documentation have been approved.

4.13 PURCHASE ORDERS

4.13.1 County reserves the right to cancel purchase orders within a reasonable period of time after issuance. Should a purchase order be canceled, the County agrees to reimburse the contractor for actual and documentable costs incurred by the contractor in response to the purchase order. The County will not reimburse the contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, or for shipment of product prior to issuance of purchase order.

4.13.2 Contractor agrees to accept verbal notification of cancellation of purchase orders from the County with written notification to follow. Contractor specifically acknowledges to be bound by this cancellation policy.

4.14 SUSPENSION OF WORK

The procurement officer may order the contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the procurement officer determines appropriate for the convenience of the County. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance

would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor. No request for adjustment under this clause shall be granted unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

4.15 STOP WORK ORDER

4.15.1 The procurement officer may, at any time, by written order to the contractor, require the contractor to stop all, or any part, of the work called for by this contract for a period of 90 calendar days after the order is delivered to the contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 calendar days after a stop work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the procurement officer shall either:

4.15.1.1 cancel the stop work order; or

4.15.1.2 terminate the work covered by the order as provided in the Termination for Default or the Termination for Convenience clause of this contract.

4.15.2 The procurement officer may make an equitable adjustment in the delivery schedule and/or contract price, and the contract shall be modified, in writing, accordingly, if the contractor demonstrates that the stop work order resulted in an increase in costs to the contractor.

4.16 TERMINATION FOR CONVENIENCE

Maricopa County may terminate the resultant contract for convenience by providing 60 calendar days advance notice to the contractor.

4.17 TERMINATION FOR DEFAULT

4.17.1 The County may, by written Notice of Default to the contractor, terminate this contract in whole or in part if the contractor fails to:

4.17.1.1 deliver the supplies or to perform the services within the time specified in this contract or any extension;

4.17.1.2 make progress, so as to endanger performance of this contract; or

4.17.1.3 perform any of the other provisions of this contract.

4.17.2 The County's right to terminate this contract under these subparagraphs may be exercised if the contractor does not cure such failure within 10 business days (or more if authorized in writing by the County) after receipt of a Notice to Cure from the procurement officer specifying the failure.

4.18 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST

Notice is given that, pursuant to Arizona Revised Statute (A.R.S.) § 38-511, the County may cancel any contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or consultant to any other party of the contract with

respect to the subject matter of the contract. Additionally, pursuant to A.R.S. § 38-511, the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County from any other party to the contract arising as the result of the contract.

4.19 OFFSET FOR DAMAGES

In addition to all other remedies at Law or Equity, the County may offset from any money due to the contractor any amounts contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

4.20 SUBCONTRACTING

4.20.1 Contractor may not assign to another contractor or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the bid serial number and identify the job or project.

4.20.2 The subcontractor's rate for the job shall not exceed that of the prime contractor's rate, as bid in the pricing section, unless the prime contractor is willing to absorb any higher rates. The subcontractor's invoice shall be invoiced directly to the prime contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the subcontractor's invoice must accompany the prime contractor's invoice.

4.20.3 Should the prime contractor require work outside of their own competency and expertise, they may then use a subcontractor to perform such work. Examples would be, but are not limited to concrete cutting, underground detection, asbestos removal, or concrete removal and reinstallation. In these examples, the work is not HVAC in nature, and therefore the subcontractor may perform the services and bill at the prevailing rate for the service. In this case, the subcontractors accepted charges shall be paid by the prime, and invoiced to the County.

4.20.4 Insurance as outlined in this contract shall be a requirement of the subcontractor.

4.21 AMENDMENTS

All amendments to this contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

4.22 ADDITIONS/DELETIONS OF SERVICES

The County reserves the right to add and/or delete services to a contract. If additional services are required from a contract, prices for such additions will be negotiated between the contractor and the County.

4.23 RIGHTS IN DATA

4.23.1 The County shall have the use of data and reports resulting from a contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a contract and to the performance thereunder.

4.23.2 Data, records, reports, and all other information generated for the County by a third party as the result of a contract are the property of the County and shall be provided in a format designated by the County or shall be and remain accessible to the County into perpetuity.

4.24 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW

4.24.1 In accordance with section MC1-373 of the Maricopa County Procurement Code, the contractor agrees to retain (physical or digital copies of) all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this contract for six years after final payment or until after the resolution of any audit questions which could be more than six years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the department shall have full access to and the right to examine, copy, and make use of, any and all said materials.

4.24.2 If the contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this contract are not sufficient to support and document that requested services were provided, the contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.25 AUDIT DISALLOWANCES

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check, or a deduction from current invoices submitted by the contractor equal to the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the contractor by issuing a check payable to Maricopa County.

4.26 STRICT COMPLIANCE

Acceptance by County of a performance that is not in strict compliance with the terms of the contract shall not be deemed to be a waiver of strict compliance with respect to all other terms of the contract.

4.27 VALIDITY

The invalidity, in whole or in part, of any provision of this contract shall not void or affect the validity of any other provision of the contract.

4.28 SEVERABILITY

The removal, in whole or in part, of any provision of this contract shall not void or affect the validity of any other provision of this contract.

4.29 RELATIONSHIPS

4.29.1 In the performance of the services described herein, the contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, co-employee, partnership, principal and agent, or joint venture between the County and the contractor.

4.29.2 The County reserves the right of final approval on proposed staff. Also, upon request by the County, the contractor will be required to remove any employees working on County projects and substitute personnel based on the discretion of the County within two business days, unless previously approved by the County.

4.30 NON-DISCRIMINATION

Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09, including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive Order 99-4 and amends Executive Order 75-5 and is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, contractor shall not discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability, or national origin. (Arizona Executive Order 2009-09 can be viewed at https://apps.azsos.gov/public_services/register/2009/46/governor.pdf).

4.31 WRITTEN CERTIFICATION PURSUANT to A.R.S. § 35-393.01

If vendor engages in for-profit activity and has 10 or more employees, and if this agreement has a value of \$100,000 or more, vendor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

4.32 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

4.32.1 The undersigned (authorized official signing on behalf of the contractor) certifies to the best of his or her knowledge and belief that the contractor, its current officers, and directors:

4.32.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from being awarded any contract or grant by any United States department or agency or any state, or local jurisdiction;

4.32.1.2 have not within a three-year period preceding this contract:

4.32.1.2.1 been convicted of fraud or any criminal offense in connection with obtaining, attempting to obtain, or as the result of performing a government entity (Federal, State or local) transaction or contract;

4.32.1.2.2 been convicted of violation of any Federal or State antitrust statutes or conviction for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property regarding a government entity transaction or contract;

4.32.1.3 are not presently indicted or criminally charged by a government entity (Federal, State or local) with commission of any criminal offenses in connection with obtaining, attempting to obtain, or as the result of performing a government entity public (Federal, state or local) transaction or contract;

4.32.1.4 are not presently facing any civil charges from any governmental entity regarding obtaining, attempting to obtain, or from performing any governmental entity contract or other transaction; and

4.32.1.5 have not within a three-year period preceding this contract had any public transaction (Federal, State or local) terminated for cause or default.

- 4.32.2 If any of the above circumstances described in the paragraph are applicable to the entity submitting a bid for this requirement, include with your bid an explanation of the matter including any final resolution.
- 4.32.3 Contractor shall include, without modification, this clause in all lower tier covered transactions (i.e., transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this contract. If this clause is applicable to a subcontractor, the contractor shall include the information required by this clause with their bid.

4.33 VERIFICATION REGARDING COMPLIANCE WITH A.R.S. § 41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS

- 4.33.1 By entering into the contract, the contractor warrants compliance with the Immigration and Nationality Act (INA using E-Verify) and all other Federal immigration laws and regulations related to the immigration status of its employees and A.R.S. § 23-214(A). Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the procurement officer upon request. These warranties shall remain in effect through the term of the contract. Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the contract and verify employee compliance using the E-Verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at www.uscis.gov.
- 4.33.2 The County retains the legal right to inspect documents of contractor and subcontractor employees performing work under this contract to verify compliance with paragraph 4.33.1 of this section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary to verify compliance are the responsibility of the contractor

4.34 CONTRACTOR LICENSE REQUIREMENT

- 4.34.1 Contractor shall procure all permits, insurance, and licenses, and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any requirements, by any and all governmental or non-governmental entities as mandated to maintain compliance with and remain in good standing. Contractor shall keep fully informed of existing and future trade or industry requirements, and Federal, State, and local laws, ordinances, and regulations which in any manner affect the fulfillment of a contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the department of any and all changes concerning permits, insurance, or licenses.
- 4.34.2 Contractor furnishing finished products, materials, or articles of merchandise that will require installation or attachment as part of the contract shall possess any licenses required. Contractor is not relieved of its obligation to obtain and possess the required licenses by subcontracting of the labor portion of the contract. Contractors are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, to ascertain licensing requirements for a particular contract. Contractor shall identify which license(s), if any, the Registrar of Contractors requires for performance of the contract.

4.35 INFLUENCE

- 4.35.1 As prescribed in MC1-1203 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for disbarment or suspension under MC1-902.
- 4.35.2 An attempt to influence includes, but is not limited to:
 - 4.35.2.1 A person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type of valuable contribution or subsidy that is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.
- 4.35.3 If a person attempts to influence any employee or agent of Maricopa County, the chief procurement officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.
- 4.35.4 ABSOLUTELY NO CONTACT BETWEEN THE RESPONDENT AND ANY COUNTY PERSONNEL, OTHER THAN THE OFFICE OF PROCUREMENT SERVICES, IS ALLOWED DURING THE SOLICITATION PROCESS UNLESS THE COMMUNICATION IS IN REGARD TO PRE-EXISTING BUSINESS WITH THE COUNTY. ANY COMMUNICATIONS REGARDING THE SOLICITATION, ITS PARTICIPANTS, OR ANY DOCUMENTATION PRIOR TO THE CONTRACT AWARD MAY BE GROUNDS FOR DISMISSAL OF THE RESPONDENT FROM THE EVALUATION PROCESS.

4.36 CONFIDENTIALITY

In the course of the solicitation process, the County may disclose information that is proprietary or confidential. By submitting a bid to the solicitation, the offeror agrees that, except as necessary to prepare a response to this solicitation, neither it nor its agents or employees will communicate, divulge, or disseminate to any third-party persons or entities, any information that is disclosed to it by the County during the course of these discussions without the express written authorization of the County. If the offeror does disclose County proprietary or confidential information to a third-party in preparing a response to this solicitation, it shall require the third-party to acknowledge and comply with this provision.

4.37 CONFIDENTIAL INFORMATION

- 4.37.1 Any information obtained in the course of performing this contract may include information that is proprietary or confidential to the County. This provision establishes the contractor's obligation regarding such information.
- 4.37.2 Contractor shall establish and maintain procedures and controls that are adequate to assure that no information contained in its records and/or obtained from the County or from others in carrying out its functions (services) 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. Contractor's procedures and controls, at a minimum, must be the same procedures and controls it uses to protect its own proprietary or confidential information. If, at any time during the duration of the contract, the County determines that the procedures and controls in place are not adequate, the contractor shall institute any new and/or additional measures requested by the County within 15 business days of the written request to do so.

4.37.3 Any requests to the contractor for County proprietary or confidential information shall be referred to the County for review and approval, prior to any dissemination.

4.38 PUBLIC RECORDS

Under Arizona law, all offers submitted and opened are public records and must be retained by the records manager at the Maricopa County Office of Procurement Services. Offers shall be open to public inspection and copying after contract award and execution, except for such offers or sections thereof determined to contain proprietary or confidential information by the Office of Procurement Services. If an offeror believes that information in its offer or any resulting contract should not be released in response to a public record request, under Arizona law, the offeror shall indicate the specific information deemed confidential or proprietary and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The records manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

4.39 INTEGRATION

This contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, expressed, or implied.

4.40 UNIFORM ADMINISTRATIVE REQUIREMENTS

By entering into this contract, the contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, Part 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 *et seq.*

4.41 GOVERNING LAW

This contract shall be governed by the laws of the State of Arizona. Venue for any actions or lawsuits involving this contract will be in Maricopa County Superior Court, Phoenix, Arizona.

4.42 ORDER OF PRECEDENCE

In the event of a conflict in the provisions of this contract and contractor's license agreement, if applicable, the terms of this contract shall prevail.