SERIAL 10109 S WATER RELOCATION SERVICES

DATE OF LAST REVISION: April 03, 2014 CONTRACT END DATE: March 31, 2017

CONTRACT PERIOD THROUGH MARCH 31, ~~2014~~ 2017

TO: All Departments

FROM: **Office of Procurement Services**

SUBJECT: Contract for **WATER RELOCATION SERVICES**

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 **March 10, 2011.**

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.

_____

Wes Baysinger, Chief Procurement Officer
Office of Procurement Services

DW/mm
Attach

Copy to: Office of Procurement Services
Gabriela Nesadurai, Flood Control District

SERIAL 10109-S

WATER MOVERS INC., PO BOX 66693, PHOENIX, AZ 85082

RESPONDENT NAME:	**Water Movers Inc.**
ADDRESS:	**30 North 56th Street Phoenix, Arizona 85034**
P.O. ADDRESS:	**PO Box 66693 Phoenix, Arizona 85082**
TELEPHONE NUMBER:	**602-275-8822**
FACSIMILE NUMBER:	**602-275-8833**
WEB SITE:	**www.watermovers.com**
REPRESENTATIVE:	**Nate Tucker**
REPRESENTATIVE E-MAIL:	**ntucker@watermovers.com**

	YES	NO	REBATE
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:	☑	☐	
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	☑	☐	
WILL OFFER REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD:	☐	☑	%

(Payment shall be made within 48 hours of utilizing the Purchasing Card)

☑ NET 30 DAYS ☐ 2% 10 DAYS NET 30 DAYS ☐ 5% 30 DAYS NET 31 DAYS

Lot Name	Product Code	Title	Price	Unit
BACKFLOW PREVENTERS	6 Inch Backflow Preventer	6" 1200 GPM - Price Per Hour	$24.00	each
BACKFLOW PREVENTERS	6 Inch Backflow Preventer	6" 1200 GPM - Price Per Month	$288.00	each
BACKFLOW PREVENTERS	6 Inch Backflow Preventer	6" 1200 GPM - Price Per Week	$96.00	each
BACKFLOW PREVENTERS	8 Inch Backflow Preventer	8" 3000 GPM - Price Per Hour	$60.00	each
BACKFLOW PREVENTERS	8 Inch Backflow Preventer	8" 3000 GPM - Price Per Month	$720.00	each
BACKFLOW PREVENTERS	8 Inch Backflow Preventer	8" 3000 GPM - Price Per Week	$240.00	each
BACKFLOW PREVENTERS	2 or 3 Inch Backflow Preventer	BACKFLOW PREVENTERS - Price Per Hour	$11.00	each
BACKFLOW PREVENTERS	2 or 3 Inch Backflow Preventer	BACKFLOW PREVENTERS - Price Per Month	$132.00	each
BACKFLOW PREVENTERS	2 or 3 Inch Backflow Preventer	BACKFLOW PREVENTERS - Price Per Week	$44.00	each
Equipment	12 Inch HDPE SDR26	10" SDR17 - Price Per Hour	$0.10	each
Equipment	12 Inch HDPE SDR26	10" SDR17 - Price Per Month	$1.20	each
Equipment	12 Inch HDPE SDR26	10" SDR17 - Price Per Week	$0.40	each
Equipment	6 Inch HDPE SDR17	6" SDR17 - Price Per Hour	$0.03	each
Equipment	6 Inch HDPE SDR17	6" SDR17 - Price Per Month	$0.36	each
Equipment	6 Inch HDPE SDR17	6" SDR17 - Price Per Week	$0.12	each
Equipment	8 Inch HDPE SDR17	8" SDR17 - Price Per Hour	$0.05	each
Equipment	8 Inch HDPE SDR17	8" SDR17 - Price Per Month	$0.60	each
Equipment	8 Inch HDPE SDR17	8" SDR17 - Price Per Week	$0.20	each
Equipment	HDPE Fusion Machine	HDPE Fusion Machine - Price Per Hour	$280.00	each

WATER MOVERS INC., PO BOX 66693, PHOENIX, AZ 85082

Equipment	HDPE Fusion Machine	HDPE Fusion Machine - Price Per Month	$3,360.00	each
Equipment	HDPE Fusion Machine	HDPE Fusion Machine - Price Per Week	$1,120.00	each
Equipment	18 Inch HDPE SDR26	HDPE PIPE - Price Per Hour	$0.17	each
Equipment	18 Inch HDPE SDR26	HDPE PIPE - Price Per Month	$2.04	each
Equipment	18 Inch HDPE SDR26	HDPE PIPE - Price Per Week	$0.68	each
Labor (After Hours)	Loaded Mile Pricing	Delivery - Per Occurrence	$5.00	each
Labor (After Hours)	Loaded Mile Pricing	Pick-up - Per Occurrence	$5.00	each
Labor (Hourly Rates)	Man Hour Pricing	Installation/Removal - After Hours	$75.00	each
Labor (Hourly Rates)	Man Hour Pricing	Installation/Removal - Regular Hours	$50.00	each
Labor (Hourly Rates)	Man Hour Pricing	Installation/Removal - Weekend & Holiday	$75.00	each
Labor (Hourly Rates)	Man Hour Pricing	Labor for services outside of scope - After Hours	$75.00	each
Labor (Hourly Rates)	Man Hour Pricing	Labor for services outside of scope - Regular Hours	$50.00	each
Labor (Hourly Rates)	Man Hour Pricing	Labor for services outside of scope - Weekend & Holiday	$75.00	each
Labor (Regular Hours)	Loaded Mile Pricing	Delivery - Per Occurrence	$2.75	each
Labor (Regular Hours)	Loaded Mile Pricing	Pick-up - Per Occurrence	$2.75	each
Labor (Weekend & Holidays)	Loaded Mile Pricing	Delivery - Per Occurrence	$5.00	each
Labor (Weekend & Holidays)	Loaded Mile Pricing	Pick-up - Per Occurrence	$5.00	each
PUMP	6 Inch Hydraulic Submersible Pump	Hydraulic Submersible - Price Per Hour	$160.00	each
PUMP	6 Inch Hydraulic Submersible Pump	Hydraulic Submersible - Price Per Month	$1,920.00	each
PUMP	6 Inch Hydraulic Submersible Pump	Hydraulic Submersible - Price Per Week	$640.00	each
WATER BRIDGES	12 Foot Water Bridge	12' - Price Per Hour	$12.00	each
WATER BRIDGES	12 Foot Water Bridge	12' - Price Per Month	$144.00	each
WATER BRIDGES	12 Foot Water Bridge	12' - Price Per Week	$48.00	each
WATER BRIDGES	20 Foot Water Bridge	20' - Price Per Hour	$25.00	each
WATER BRIDGES	20 Foot Water Bridge	20' - Price Per Month	$300.00	each
WATER BRIDGES	20 Foot Water Bridge	20' - Price Per Week	$100.00	each
WATER BRIDGES	28 Foot Water Bridge	28' - Price Per Hour	$25.00	each
WATER BRIDGES	28 Foot Water Bridge	28' - Price Per Month	$300.00	each
WATER BRIDGES	28 Foot Water Bridge	28' - Price Per Week	$100.00	each
WATER BRIDGES	4 Foot Water Bridge	4' - Price Per Hour	$5.34	each
WATER BRIDGES	4 Foot Water Bridge	4' - Price Per Month	$64.08	each
WATER BRIDGES	4 Foot Water Bridge	4' - Price Per Week	$21.36	each
WATER BRIDGES	40 Foot Water Bridge	40' - Price Per Hour	$40.00	each
WATER BRIDGES	40 Foot Water Bridge	40' - Price Per Month	$480.00	each
WATER BRIDGES	40 Foot Water Bridge	40' - Price Per Week	$160.00	each
WATER TOWER	12k Gallon Water Tower	12,000 Gallon - Price Per Month	$900.00	each
WATER TOWER	12k Gallon Water Tower	12,000 Gallon - Price Per Week	$300.00	each

SERIAL 10109-S

WATER MOVERS INC., PO BOX 66693, PHOENIX, AZ 85082

MISC -hose & fitting

MARICOPA COUNTY SHALL RECEIVE A BLANKET 20% OFF LIST RENTAL RATES

PRICING SHEET: NIGP CODE 90694

Vendor Number:	2011000439 0
Certificates of Insurance	Required
Contract Period:	To cover the period ending **March 31, ~~2014~~ 2017.**

WATER RELOCATION SERVICES

1.0 INTENT**:**

The intent of this Invitation for Bids is to secure a sole vendor to provide water relocation services to include but not limited to rental and or purchase of water moving equipment and supplies, pick up, storage, relocation, pumping and distribution of water via pump, transmission line or pre wet sprinkler system. For construction use/control of PM-10 measures during construction , maintenance and/or emergency activities.

Other governmental entities under agreement with the County may have access to services provided hereunder (see also Sections 2.11 and 2.12, below).

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

2.0 SCOPE OF SERVICES:

2.1 MINIUMUM EQUIPMENT REQUIREMENTS:

Vendor must able to provide the following equipment:

2.1.1 PIPE:

HDPE pipe ranging in sizes from 2" to 18"
HDPE Fusion Machine
Victaulic pipe

2.1.2 HOSES, FITTINGS

Hook & Latch
Ball & Socket

2.1.3 PUMPS:

Diesel Driven Hydraulic Submersible: 200GPM flow, 160ft Dynamic head, 3 in Solid Handling

Pumps capable of pumping 3,500 GPM

2.1.4 OTHER EQUIPMENT:

Fire suppression systems, including temporary fire hydrants, piping and pumps equipped with auto start pressure sensitive switch

12,000 gallon water towers

Water Bridges available on 4', 12', 20' 28' and 40' lengths

Back Flow Preventers in 2", 3", 6" and 8" sizes (vendor must be certified in installation and testing, documentation must accompany bid submittal.)

2.2 CONTRACTOR REQUIREMENTS:

Contractor shall supply all labor, supervision, materials, tools, equipment and all effort necessary to perform the services requested.

2.3 SERVICE HOURS:

REGULAR HOURS shall be work performed between 6:00 AM to 6:00 PM, Monday through Friday, excluding County Holidays

AFTER HOURS shall be work performed after 6:00 PM and before 6:00 AM the next morning.

WEEKEND & HOLIDAYS shall be work performed during Saturday, Sunday or during any County Holiday

2.4 RESPONSE TIMES:

Response time to all REGULAR service work shall be within __6__hours on-site after Contractor receives request from the County Department, with the exception of an emergency request that occurs during REGULAR hours, which shall be __2__hours from request.

2.5 USAGE REPORT:

The Contractor shall furnish the County a quarterly usage report 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.

2.6 INVOICES AND PAYMENTS:

2.6.1 The Contractor shall submit two (2) legible copies of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract Serial Number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity
- Contract Item number(s)
- Description of Purchase
- Pricing per unit of purchase
- Freight (if applicable)
- Extended price
- Arrival and completion time (if applicable)
- Total Amount Due

2.6.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.

2.6.3 Payment shall 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 Award the Contractor shall fill out an EFT Enrollment form located on the County Department of Finance Website as a fillable PDF document (www.maricopa.gov/finance/) .

2.6.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

2.7 TAX:

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

2.8 DELIVERY:

It shall be the Contractor's responsibility to meet the proposed delivery requirements. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

2.9 FUEL COST PRICE ADJUSTMENT:

2.9.1 This provision provides for limited increased or decreased costs of motor fuels (fuels) used to perform services under this Contract. This provision does not apply to burner fuel (i.e. propane, natural gas, fuel oil, used motor oil). It applies to motor fuel only. Fuel cost adjustments may be either positive or negative. A positive fuel cost adjustment will result in an increase in payments to Contractor while a negative fuel cost adjustment will result in a decrease in payments to Contractor.

2.9.2 This provision is intended to minimize risk to both parties to this Contract due to fuel cost fluctuations that may occur during the term of this Contract. This provision is not designed to estimate actual quantities of fuel used in providing services under this Contract, but to provide a reasonable basis for calculating a fuel cost adjustment based on average conditions.

2.9.3 Application of this provision will come into effect upon Contractor submittal of a fuel cost adjustment request. A request may be submitted only when the increased cost of fuel, established as a percentage of total contract price (base fuel cost) upon award of this Contract, exceeds ten (10%) percent of the base fuel cost. The Contractor may request a fuel surcharge no more than four (4) times annually, during the month(s) of March, June, September and December. The request must be submitted no later than the tenth (10th) of the month. Any surcharge shall be effective the first of the following month after receipt and approval. The date of County approval of a fuel cost adjustment request shall become the base date for any future Contractor adjustment requests.

2.9.4 Contractor shall include, as part of its price bid, the percentage of total contract price fuel represents (e.g., fuel cost equals 10% of Contractor cost) (see also, Attachment A, Prices). This percentage will represent and establish the base fuel cost for this Contract. The base fuel cost shall be established as the due date for submission of proposals for this Contract. All subsequent fuel cost adjustments shall be based upon the date the County approves a Contractor's request for fuel cost adjustment (e.g. fuel cost adjustment approved by County on January 1, 2006, January 1, 2006 becomes base date for any next Contractor request for adjustment).

2.9.5 Fuel Cost Application Requirement. The Contractor must provide documentation including type of motor fuel and fuel invoices with price of the fuel used in providing services under this Contract, from the month bids were due and the month of the cost adjustment request, with any fuel cost adjustment application. The fuel cost adjustment application must be completed with all applicable data, and signed by the Contractor.

2.9.6 The fuel surcharge shall be based on the current quarterly index of the West Coast (PADD5) Diesel (On-Highway)-All Types or Reformulated Areas Gasoline compared to the previous quarterly index period as reported on the Energy Information Administration (EIA) website: http://www.eia.doe.gov/

2.9.7 The computation of the fuel surcharge amount shall be determined as follows:

2.9.7.1 The fuel cost component from Attachment A (Pricing) of the Contract with Maricopa County, multiplied by the percent of change indicated by the EIA report from the previous index period.

2.9.7.2 Upon agreement by the County to the surcharge, the County shall issue written approval of the change prior to any adjusted invoicing submitted for payment.

2.9.7.3 The surcharge shall be added as a separate line item to the invoice.

2.10 STRATEGIC ALLIANCE for VOLUME EXPENDITURES ($AVE):

The County is a member of the $AVE cooperative purchasing group. $AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the $AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of $AVE 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 $AVE, **please so state** in your proposal. 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 Request for Proposal.

2.11 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

3.0 CONTRACTUAL TERMS & CONDITIONS:

3.1 CONTRACT TERM:

This Invitation for Bid is for awarding a firm, fixed price purchasing contract to cover a three (3) year term.

3.2 OPTION TO RENEW:

The County may, at their option and with the approval of the Contractor, renew the term of this Contract up to a maximum of THREE (3) additional years, (or at the County's sole discretion, extend the contract on a month to month basis for a maximum of six (6) months after expiration). The Contractor shall be notified in writing by the Office of Procurement Services Department of the County's intention to renew the contract term at least thirty (30) calendar days prior to the expiration of the original contract term.

3.3 PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract annual anniversary dates. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.4 INDEMNIFICATION:

3.4.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors,

omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

3.4.2 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 paragraph.

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

3.5 INSURANCE:

3.5.1 **Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A+. 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.**

3.5.2 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.

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

3.5.4 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.

3.5.5 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.

3.5.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

3.5.7 The insurance policies required by this Contract, except Workers' Compensation, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

3.5.8 The policies required hereunder, except Workers' Compensation, 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.

3.5.9 Commercial General Liability:

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than $2,000,000 for each occurrence, $2,000,000 Products/Completed Operations Aggregate, and $4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

3.5.10 Automobile Liability:

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella 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 under this Contract.

3.5.11 Workers' Compensation:

3.5.11.1 **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.**

3.5.11.2 Contractor waives all rights against County 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 pursuant to this Contract.

3.5.12 Certificates of Insurance.

3.5.12.1 Prior to commencing work or services under this Contract, Contractor shall have insurance in effect 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 be made available to the County upon ten (10) business days. **BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF CONTRACT.**

3.5.12.1.1 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.

3.5.12.1.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

3.5.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

3.6 PROCUREMENT CARD ORDERING CAPABILITY:

County may determine to use a procurement card that may be used from time-to-time, to place and make payment for orders under this Contract. Contractors without this capability may be considered non-responsive and not eligible for award consideration.

3.7 INTERNET ORDERING CAPABILITY:

It is the intent of County to use the Internet to communicate and to place orders under this Contract. Contractors without this capability may be considered non-responsive and not eligible for award consideration.

3.8 ORDERING AUTHORITY.

3.8.1 Respondents should understand that any request for purchase of materials or services shall be accompanied by a valid purchase order, issued by Office of Procurement Services, or by a Certified Agency Procurement Aid (CAPA).

3.8.2 Maricopa County departments, cities, other counties, schools and special districts, universities, nonprofit educational and public health institutions may also purchase from under this Contract at their discretion and/or other state and local agencies (Customers) may procure the products under this Contract by the issuance of a purchase order to the Respondent. Purchase orders must cite the Contract number.

3.8.3 Contract award is in accordance with the Maricopa County Procurement Code. All requirements for the competitive award of this Contract have been met. A purchase order for the products is the only document necessary for Customers to purchase and for the Respondent to proceed with delivery of materials available under this Contract.

3.8.4 Any attempt to represent any product not specifically awarded under this Contract is a violation of the Contract. Any such action is subject to the legal and contractual remedies available to the County, inclusive of, but not limited to, Contract cancellation, suspension and/or debarment of the Respondent.

3.9 REQUIREMENTS CONTRACT:

3.9.1 Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid will be a requirements contract. However, the Contract does not guarantee any minimum or maximum number of purchases will be made. It only indicates that if purchases are made for the materials contained in the Contract, they will be purchased from the Contractor awarded that item. Orders will only be placed when the County identifies a need and proper authorization and documentation have been approved.

3.9.2 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 but only for actual and documentable costs incurred by the Contractor due to and after issuance of 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, shipment of product prior to issuance of Purchase Order, etc.

3.9.3 Contractors agree to accept verbal notification of cancellation from the Office of Procurement Services Procurement Officer with written notification to follow. By

submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

3.10 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

3.11 TERMINATION FOR DEFAULT:

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after the County deems that the Contractor has failed to remedy the problem after being forewarned.

3.12 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of a substantial violation of any provision of this Contract, then the County may terminate the Contract. Prior to termination of the Contract, the County shall give the Contractor fifteen- (15) calendar day's written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

3.13 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to 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.

3.14 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.

3.15 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete materials to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

3.16 SUBCONTRACTING:

3.16.1 The Contractor may not assign a Contract 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 project.

3.16.2 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.

3.17 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.

3.18 **ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:**

In accordance with section MCI 367 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) 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.

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.

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 claim submitted by the Contractor by 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

3.19 **PUBLIC RECORDS:**

All Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection after Contract award and execution, except for such Offers deemed to be confidential by the Office of Procurement Services. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential, the specific information 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. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

3.20 ADEQUACY OF RECORDS:

If the Contractor's books, records and other documents relevant to a Contract are not sufficient to support and document that allowable materials were provided, the Contractor shall reimburse Maricopa County for the materials not so adequately supported and documented.

3.21 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 and the required course of action, which shall be at the option of the County either to adjust any future

claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

3.22 VALIDITY:

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

3.23 RIGHTS IN DATA:

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.

3.24 RELATIONSHIPS:

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, partnership, principal and agent, or joint venture between the County and the Contractor.

3.25 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

3.25.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

3.25.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

3.25.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3.25.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

3.25.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

3.25.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

3.25.3 The Contractor agrees to 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.

3.26 ALTERNATIVE DISPUTE RESOLUTION:

3.26.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such

arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

3.26.1.1 Render a decision;

3.26.1.2 Notify the parties that the exhibits are available for retrieval; and

3.26.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

3.26.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

3.26.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

3.27 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

3.27.1 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). The 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. The 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 USCIS.GOV.

3.27.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 3.26.1 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.

~~3.28 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:~~

~~3.28.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, 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 using agency of any and all changes concerning permits, insurance or licenses.~~

~~3.28.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County 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.~~

3.29 CONTRACTOR LICENSE REQUIREMENT:

3.29.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, 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 using agency of any and all changes concerning permits, insurance or licenses.

3.29.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to posses the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

3.30 POST AWARD MEETING:

The Contractor may be required to attend a post-award meeting with the Using Agency to discuss the terms and conditions of this Contract. This meeting will be coordinated by the Procurement Officer of the Contract.