

SERIAL 02104 S OPERATION OF COUNTY STORE

DATE OF LAST REVISION: November 30, 2006 CONTRACT END DATE: November 03, 2008

NOVEMBER 03, 2005, 2006 2008
~~NOVEMBER 03, 2004~~
CONTRACT PERIOD THROUGH ~~NOVEMBER 03, 2003~~

TO: All Departments
FROM: Department of Materials Management
SUBJECT: Contract for **OPERATION OF COUNTY STORE**

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 **OCTOBER 31, 2002 Eff. 11/04/02.**

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, Director
Materials Management

LC/mm
Attach

Copy to: Clerk of the Board
 Pat Soria, Human Resources
 Scott Mara, Human Resources
 Mirheta Muslic, Materials Management



CONTRACT FOR SERVICES FOR OPERATION OF COUNTY STORE

This Contract is entered into this 4th day of November 2002 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and First Choice Vending/Tim Mead, a sole proprietorship ("Contractor") to act as the County's agent for the County Store.

1.0 TERM

- 1.1 This Contract is for a term of one (1) year, beginning on the 4th day of November 2002 and ending the 3rd day of November ~~2003 2004 2005 2006~~ **2008**.
- 1.2 The County may, at its option and with the agreement of the Contractor, extend the period of this Contract for additional one (1) year terms up to a maximum of four (4) additional terms. The County shall notify the Contractor in writing of its intent to extend the Contract period at least thirty (30) calendar days prior to the expiration of the original contract period, or any additional term thereafter.

2.0 DUTIES

- 2.1 The Contractor shall serve as an agent to Maricopa County to provide County store keeping services (i.e.; all merchandise sales, inventory replenishment/maintenance, cash handling and accounting, human resource issues, loss prevention, etc.) These store-keeping services are to entail all services that would reasonably be considered as necessary for the successful operation of the County Store (currently located at 301 W. Jefferson Street, Phoenix, AZ 85003).

2.1.1 Employee Services Management Association Items/Ticket Sales

Contractor agrees to sell these items to County employees at a nominal mark-up not to exceed **10%** ~~\$.50~~ per ticket. These items generally consist of: Movie tickets, Discount Tickets, Promotional Tickets, or other tickets the County may want to sell from time to time.

Contractor agrees to reasonably verify sales of tickets are made to County employees only. Verification of County employment shall be checked at the point of sale by the Contractor and ticket sales shall only be made when a County issued ID or badge is provided.

Contractor agrees to purchase, or secure by consignment, tickets for sale at its own expense and maintain a reasonably sufficient inventory base to satisfy the requirements of the County's employees.

Unless approved in writing by the County, Contractor agrees not to sell tickets that may compete with the tickets already being provided to the Contractor for sale in the store.

2.1.2 Gift Certificates/Peak Performers

Contractor agrees to unconditionally accept outstanding County issued gift certificates for the purchase of County merchandise only (merchandise purchased by the County to be sold by the Contractor). The gift certificates shall be treated as a cash sale by the Contractor and the Contractor shall hold these certificates and submit them on a monthly basis to the Maricopa County Human Resources Department for financial reimbursement and verification. The County shall reimburse the Contractor by check for these certificates within thirty (30) days.

2.1.3 Use of County Seal/Logo

The County hereby grants limited use of the County seal to Contractor. The use shall be limited to the seal being placed on promotional items such as cups, pens, t-shirts, baseball caps, key chains, or other merchandise that could reasonably be considered a promotional item. In no case shall the use of the County seal be done in an unprofessional or derogatory manner inconsistent with the image goals desired by Maricopa County.

Prior to placing the County seal on any product, the Contractor unconditionally agrees to allow the County to approve or disapprove items that the Contractor would like to place the County seal on. Written County approval will be provided by the County's Human Resources Department.

2.1.4 Pricing and Quality of Items

Contractor shall unconditionally permit the County to reasonably verify and approve the prices charged and quality of items sold for any products, merchandise or services sold in the County store while the Contractor is acting as the County's designated agent. In no case, shall any price charged or posted be unreasonable, unfair, or out of line with current market conditions for similar products, merchandise or services sold in the Phoenix metropolitan area.

2.1.5 Existing Point of Sale System

Contractor will be permitted to use and maintain the existing County owned Point of Sale (POS) System to include all costs to maintain the system and the integrity of the data held by the POS system.

2.1.6 Inventory Purchases

Contractor agrees that it will be responsible for maintaining a reasonably sufficient inventory base and purchasing items to be displayed for sale. At a minimum, Contractor agrees to carry no less than (3) three styles of shirts (polo, T-shirt and denim shirts) in small, medium, large, x-large and xx-large sizes.

2.1.7 Dedicated Space

The Contractor shall allow and designate four (4) vertical feet of shelf space for the display and sale of products with the County seal/logo on it.

2.1.8 Time Frame

Contractor agrees that time is of the essence in performing its duties starting up and maintaining an operational, fully functioning store. Unless approved by the County in writing, the store is expected to be fully operational by no later than November 4, 2002.

- 2.1.9 **As of the execution date of this amendment and after the current supply is fully depleted. Contractor will no longer be required to order or carry County souvenir items excepting orders of souvenirs that may be ordered time to time by the County for specific events. Contractor and County shall mutually agree upon an economical order quantity of the souvenir items when the County expresses a need for these items. Contractor shall provide documentation (invoices, costs, financial data, etc.) and use reasonable business accounting methods to determine the minimum quantity that must be ordered.**

3.0 TERMS & CONDITIONS

3.1 INDEMNIFICATION AND INSURANCE:

3.1.1 Indemnification.

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the 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 and costs, relating to this Contract.

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.

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

3.1.2 Insurance Requirements.

Contractor, at its own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed companies in the State of Arizona with policies and forms satisfactory to the County.

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 the County, constitute a material breach of this Contract.

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

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

The Contractor shall be solely responsible for the deductible and/or self-insured retention and the County, at its option, may require the Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The County reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The County shall not be obligated, however, to review such 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 the County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

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

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

3.1.2.1 Commercial General Liability. Contractor shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$1,000,000 Products/Completed Operations Aggregate and a \$1,000,000 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 including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00 01 10 93 or any replacements thereof.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form CG 20 10 11 85, and shall include coverage for Contractor's operations and products and completed operations.

If the Contractor subcontracts any part of the work, services or operations awarded to the Contractor, Contractor shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the performance of the Contractor's work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Contractor's Commercial General Liability insurance.

3.1.2.2 Automobile Liability. Contractor shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000, each occurrence, with respect to Contractor's vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this Contract.

3.1.2.3 Workers' Compensation. The Contractor shall carry 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, as well as 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.

If any work is subcontracted, the Contractor will require Subcontractor to provide Workers' Compensation and Employer's Liability insurance to at least the same extent as required of the Contractor.

3.1.3 Certificates of Insurance.

3.1.3.1 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 48 hours notice. **BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF CONTRACT.**

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

3.1.4 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.

3.2 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County
Department of Materials Management
Attn: Corry Slama
320 West Lincoln Street
Phoenix, Arizona 85003

For Contractor:

First Choice Vending
Tim Mead
101 W. Jefferson Street
Phoenix, AZ 85003

3.3 TERMINATION:

County may unconditionally terminate this Contract for convenience by providing thirty (30) calendar days advance notice to the Contractor.

County may terminate this Contract if Contractor fails to pay any charge when due or fails to perform or observe any other material term or condition of the Contract, and such failure continues for more than ten (10) days after receipt of written notice of such failure from County, or if Contractor becomes insolvent or generally fails to pay its debts as they mature.

3.4 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel this 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.

3.5 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 under this contract.

3.6 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a 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 services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

3.7 SUBCONTRACTING:

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

3.8 AMENDMENTS:

All amendments to this Contract must be in writing and signed by both parties.

3.9 RETENTION OF RECORDS:

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. 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 and other documents 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.

3.10 AUDIT DISALLOWANCES:

If at any time County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

3.11 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 this Contract.

3.12 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

3.13 INTEGRATION

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

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR

AUTHORIZED SIGNATURE

PRINTED NAME AND TITLE

ADDRESS

DATE

MARICOPA COUNTY

BY: _____
DIRECTOR, MATERIALS MANAGEMENT

DATE

APPROVED AS TO FORM:

MARICOPA COUNTY ATTORNEY

DATE

FIRST CHOICE VENDING, 101 W. JEFFERSON STREET, PHOENIX, AZ 85003

Vendor Number: **W000006484 X**

Telephone Number: **602/722-1933**

Fax Number: 602/262-1700

Contact Person: Tim Mead

E-mail Address: [**firstchoicevending@earthlink.net**](mailto:firstchoicevending@earthlink.net)

Certificates of Insurance Required

Contract Period: To cover the period ending **November 03, 2003 2004 2005 2006 2008.**