

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 18-304

Effective Date: 07/03/2018 Termination Date: 07/02/2019 Prior Contract Number (Synergen/CMS): _____

Expense Amount: \$* 353,000.00 Revenue Amount: \$ _____

*Funding Source(s) required: ITD Internal Service Fund

Funding from General Fund? Yes No If Yes \$ _____ % _____

Contract is fully or partially funded with Federal Funds? Yes No

*Is the Contract to a vendor or subrecipient? Vendor

Were insurance or indemnity clauses modified? Yes No

If Yes, attach Risk's approval

Vendor is using a Social Security Number? Yes No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

Expense or Revenue Increase Decrease Amount This Amendment: \$ _____

Is there revenue included? Yes No If Yes \$ _____

*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

Match Amount: \$ _____ Revenue Amount: \$ _____

*All Funding Source(s) required:

*Match funding from General Fund? Yes No If Yes \$ _____ % _____

*Match funding from other sources? Yes No If Yes \$ _____ % _____

*Funding Source: _____

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Sal Servin, Procurement Officer

Department: Procurement Telephone: 520-724-9510

Department Director Signature/Date: [Signature] 6/12/18

Deputy County Administrator Signature/Date: [Signature] 6-14-18

County Administrator Signature/Date: [Signature] 6-14-18

(Required for Board Agenda/Addendum Items)



PIMA COUNTY

MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 1800000000000000304

MA Version: 1

Page: 1 of 2

Description: eDiscovery

I S S U E R	Pima County Procurement Department
	130 W. Congress St. 3rd Fl
	Tucson AZ 85701
	Issued By: SAL SERVIN
	Phone: 5207249510
	Email: sal.servin@pima.gov

T E R M S	Initiation Date: 07-03-2018					
	Expiration Date: 07-02-2019					
	<table> <tr> <td>NTE Amount:</td> <td>\$353,000.00</td> </tr> <tr> <td>Used Amount:</td> <td>\$0.00</td> </tr> </table>		NTE Amount:	\$353,000.00	Used Amount:	\$0.00
	NTE Amount:	\$353,000.00				
	Used Amount:	\$0.00				

V E N D O R	Exterro, Inc.	Contact: Accounts Receivable
	4145 SW Watson Ave., Ste. 400	Phone: 503-501-5130
	Beaverton OR 97005	Email: accountsreceivable@exterro.com
		Terms: 0.00 %
		Days: 30

Shipping Method:	Vendor Method
Delivery Type:	
FOB:	FOB Dest, Freight Prepaid
Modification Reason	
This Master Agreement is for an initial term of one (1) year in the annual award amount of \$353,000.00 (including sales tax) and includes four (4) one-year renewal options.	
Attachment: Offer Agreement.	

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All transactions and conduct are required to conform to these documents.



PIMA COUNTY

MASTER AGREEMENT DETAILS

Master Agreement No: 18000000000000000304

MA Version: 1

Page: 2 of 2

Line	Description					
1	Standard Implementation Services (one-time fee)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$75,000.00			
2	Standard Training (up to 10 people)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$17,000.00			
3	Software licenses for Single US Production inc. Annual Maint					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	YEAR	\$238,851.00			

Index for RFP 287802 eDiscovery

1. Original RFP Response
2. Request for Clarification (RFC)
3. Best and Final Offer (BAFO)

Original RFP Response

OFFER AGREEMENT

1. INTENT:

This document is intended to establish a Master Agreement ("MA") to provide Pima County ("County") with software that will structure, expedite, and make auditable the process of fulfilling public records requests and litigation holds, eDiscovery, on an "as required basis" by issue of Delivery Order ("DO").

As defined by the Pima County Standard Terms and Conditions included herein, this contract is non-exclusive and County may terminate it for any reason without penalty or cost.

All Goods and Services that Contractor offers or provides pursuant to the contract will conform to the requirements defined by or referred to by the solicitation documents including *Solicitation Addenda*, *Instructions to Offerors*, *Standard Terms and Conditions*, and this *Proposal Agreement*, all of which are incorporated herein.

This document, including all attachments and documents incorporated by reference, constitutes the entire contract between the parties pertaining to the subject matter hereof, and merges all prior or contemporaneous agreements and understandings, oral or written, herein.

2. CONTRACT TERM, RENEWALS, EXTENSIONS & REVISIONS:

The initial term of the Master Agreement will be for a one (1) year period and includes four (4) one-year renewal options that the parties may exercise upon written agreement as follows:

Contract extensions, renewals, or revisions will occur through the issuance by County to Contractor of a revised Master Agreement document setting forth the requested changes. Failure by Contractor to object in writing to the proposed revisions, terms, conditions, scope modifications and/or specifications within ten (10) calendar days of issuance by County will signify acceptance of all such changes by Contractor and the revision will be binding upon the parties, effective on the date of issuance.

3. CONTRACTOR MINIMUM QUALIFICATIONS:

The Contractor certifies that it is competent, willing and responsible for performing the services or providing the products in accordance with all requirements of the solicitation and this contract. Contractor certifies that it possesses all licenses required by applicable Agencies to satisfy the requirements of this contract. See Exhibit C.

4. PRODUCT OR SERVICE SPECIFICATIONS & SCOPE:

A. General Definition of Products and/or Services

Contractor will provide a software solution to organize, track, process, and respond to public records requests and to comply with federal and state rules regarding litigation hold and discovery responses. Key processing steps of collecting, sorting, culling, tagging, and redacting are targets for automation. This solution must work within our existing environment and must result in substantial reduction in staff time currently dedicated to manually completing required tasks. Pima County expects the chosen vendor to lead the implementation effort, providing all necessary domain expertise to complement Pima County's subject matter experts in public records request processing and litigation hold compliance. Ongoing support is understood to be a key solution feature, providing ready access to qualified product experts when defects in software or business processes emerge, as well as when opportunities to extend the reach or capability of the solutions arise.

B. Item Specifications

Additional specifications can be found in **Exhibit A: eDiscovery Statement of Work (SOW)**.

5. OFFER ACCEPTANCE AND ORDER RELEASES:

County will accept offer(s) and execute this contract by issue of a MA (recurring requirements) to be effective on the document's date of issue without further action by either party. The MA will document the term of the agreement.

Pursuant to the executed MA, County departments requiring the goods or services defined herein will issue a DO to the Contractor. County will furnish the DO to Contractor via facsimile, e-mail or telephone. **If County gives the order verbally, the County Department issuing the order will transmit a confirming order document to Contractor within five (5) workdays of the date it gives the verbal order.**

Contractor must not supply materials or services that are not specified on the MA and are not documented or authorized by a DO at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County DO.

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this contract. In particular, Contractor will not provide goods or services in excess of the executed contract items, item quantity, item amount, or contract amount without prior written authorization by contract revision that County has properly executed and issued. Any items Contractor provides in excess of those stated in the contract are at Contractor's own risk. Contractor will decline verbal requests to deliver items in excess of the contract and will report all such requests in writing to the County Procurement Department within one (1) workday of the request. The report must include the name of the requesting individual and the nature of the request.

6. ACCEPTANCE OF GOODS AND SERVICES:

The County Department designated on the issued order (DO) will accept goods and services only in accordance with this contract. Such acceptance is a prerequisite to the commencement of payment terms.

7. COMPENSATION & PAYMENT:

Contractor will submit Request(s) for Payment or Invoices to the location and entity defined by County's DO document.

All Invoice documents will reference the County's DO number under which the services or products were ordered. **ALL** Invoice line items will utilize the item description, precise unit price and unit of measure defined by the County's order document. County may return invoices that include line items or unit prices that do not match those documented by the County's order to Contractor unprocessed for correction. **Contractor will not accept orders, or provide services or products that cumulatively exceed the contract amount.**

Standard payment terms are net thirty (30) days from the date of valid invoice document and do not commence until the later of 1) the receiving County Department receives goods or services into County's payment system or 2) County Financial Operations receives and verifies Contractor's invoice.

OPTIONAL EARLY PAYMENT DISCOUNT TERM: Pima County Administrative Procedure No. 22-35 section 2.2.4 defines County's practice regarding discounts for early payment. Contractor offers the following discounts to those prices to be used for all orders issued pursuant to this contract. County will utilize the existing payment code that best matches that offered and does not exceed the offered discount percentage. Payment days cannot be less than ten (10) calendar days. Contractor must submit valid invoice document consistent with the associated DO to County Finance Department at least seven (7) calendar days prior to the date on which the discounted payment is due. If desired, for any order issued pursuant with this contract, Contractor may offer early payment discounts that exceed this Standard Early Payment Discount.

Standard Early Payment Discount Percent: _____% if payment tendered within _____ Days as above.

The MA issued to accept Contractor's offer will define the not-to-exceed amount of the contract.

The parties may negotiate and establish unit pricing in writing under the contract for items included in the scope of the contract that has not previously defined unit pricing.

Unless the parties otherwise agree in writing, all pricing will be *F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destination")*. Contractor will deliver and unload products or services at the destination(s) that the delivery article of this contract or accepted *Order* indicates. The offered Unit Price must include all freight costs.

Although an order may not fully define State and City sales tax, County will pay such taxes as are DIRECTLY applicable to Pima County and Contractor invoices such taxes as a separate line item. Contractor must not include such taxes in the item unit price.

Price Warranty. Contractor will give Pima County the benefit of any price reduction before actual time of shipment.

Price Escalation. All unit prices include compensation for Contractor to implement and actively conduct cost and price control activities. Pricing will remain firm during the initial year of the contract term after which the parties may consider price increases no more frequently than once per year. Contractor will submit a written request to County that includes

supporting documents justifying requested increases at least ninety (90) days prior to the renewal date. Contractor will provide evidence, cite sources, demonstrate specific conditions and document how those conditions affect the cost of its performance, and identify specific efforts Contractor has taken to control and reduce those and other costs to avoid the need to increase prices. County will review proposed pricing and determine if it is allowable, fair and reasonable, and in the best interest of County to accept the proposal. County reserves the right to continue, accept or reject the price proposal, or terminate and re-solicit the contract.

All pricing will conform to Pima County's Living Wage ordinance if applicable, including required annual adjustments of the wage.

Quantities in this solicitation are estimates only. County reserves the right to increase or decrease quantities and amounts. County makes no guarantee regarding actual orders for items or quantities during the term of the agreement. County is not responsible for Contractor inventory or order commitment.

Contractor's unit prices must include all incidentals and associated costs required to comply with and satisfy all requirements of this solicitation, which includes the *Instructions to Offerors*, *Standard Terms and Conditions*, and Proposal Agreement. County will make no payments for items not in the contract.

Contractor will provide detailed documentation in support of payment requests, which should be consistent with and not exceed County's DO document. Contractor will bill County within one (1) month after the date on which Contractor's right to payment accrues ("Payment Accrual Date"), which, unless this contract specifically provides otherwise, is the date Contractor delivers goods, performs services or incurs costs. Invoices must assign each billed amount to an appropriate line item of County's order and document each Payment Accrual Date. County may refuse to pay any amount that Contractor bills in which does not conform to County's DO document. County will refuse to pay any amount that Contractor bills more than six (6) months after the Payment Accrual Date, pursuant to A.R.S. § 11-622(C).

UNIT PRICES (Net 30 Days - Payment Terms)

See Exhibit B: Cost Proposal

8. DELIVERY:

As defined by the Standard Terms, "On-Time" delivery is an essential part of the consideration to be given to COUNTY under the contract. Delivery will be made in accordance with the Instructions to Bidders, Standard Terms and Conditions and to the location(s) referenced on the Delivery Order or Delivery Order Maximo or Contract.

9. TAXES, FEES, EXPENSES:

County is exempt from federal excise taxes for goods. County is subject to State and City sales tax. County will pay no separate charges for delivery, drayage, express, parcel post, packing, insurance, license fees, permits, costs of bonds, surcharges, or bid preparation unless the contract expressly includes such charges and the solicitation documents itemizes them.

10. OTHER DOCUMENTS:

Contractor and COUNTY in entering into this contract have relied upon information provided or referenced by Pima County Solicitation No. 287802 including the Request for Proposal, Instructions to Offerors, Standard Terms and Conditions, Solicitation Addenda, Contractor's Proposal, documents submitted by Contractor or References to satisfy Minimum Qualifications and any other information and documents submitted by Contractor's response to County's Solicitation. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this contract.

11. INSURANCE:

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit, the indemnity covenants contained in this Contract. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

11.1 Minimum Scope and Limits of Insurance:

Contractor shall procure and maintain, until all contractual obligations have been discharged, the insurance

coverage with limits of liability not less than stated below. Pima County in no way warrants that the minimum insurance limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract. The Contractor is free to purchase additional insurance that required by the County. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the County's Insurance Requirements.

11.1.1 Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, broad form contractual liability coverage, personal and advertising injury and products – completed operations.

11.1.2 Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000 each accident.

11.1.3 Workers' Compensation (WC) and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.

11.1.4 Claim-Made Insurance Coverage - If any part of the Required Insurance is written on a claim-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

11.2 Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

Additional Insured: The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

Primary Insurance: The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation: Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the Pima County project or contract number and project description.

11.3 Verification of Coverage:

Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or

prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

11.4 Approval and Modifications:

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

13. PERFORMANCE BOND: N/A

14. ACKNOWLEDGEMENT of SOLICITATION ADDENDA:

Contractor acknowledges that it incorporates the following solicitation addenda in its offer and this contract:

Addendum #	Date	Addendum #	Date	Addendum #	Date
287802-1	03/12/2018				

**15. SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION: [Not Applicable if not competed; Coop, SS, LC, etc.]
 Is your firm SBE-certified as defined by the solicitation "Instruction to Offerors" section? Yes No (Select one)**

If 'Yes', have you included your certification document? Yes No (Select one)

NOTE: If you do not submit the SBE Certification document with your bid, County will not apply the SBE Preference.

(REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

16. BID/OFFER CERTIFICATION:

CONTRACTOR LEGAL NAME: Exterro, Inc.

BUSINESS ALSO KNOWN AS: _____

MAILING ADDRESS: 4145 SW Watson Ave., Ste. 400

CITY/STATE/ZIP: Beaverton, OR 97005

REMIT TO ADDRESS: DEPT LA 24392

CITY/STATE/ZIP: Pasadena, CA 91185-4392

CONTACT PERSON NAME/TITLE: Kipp Mitchell, Account Executive

PHONE: 480-406-8099 FAX: 866-408-7310

CONTACT PERSON EMAIL ADDRESS: kipp.mitchell@exterro.com

EMAIL ADDRESS FOR ORDERS & CONTRACTS: bob.rohlf@exterro.com

CORPORATE HEADQUARTERS ADDRESS: 4145 SW Watson Ave., Ste. 400, Beaverton, OR 97005

WEBSITE: www.exterro.com

By signing and submitting these Proposal Agreement documents, the undersigned certifies that they are legally authorized to represent and bind Contractor to legal agreements, that all information submitted is accurate and complete, that Contractor has reviewed the Pima County Procurement website for solicitation addenda and has incorporated all such addenda to its offer, that Contractor is qualified and willing to provide the items requested, and that Contractor will comply with all requirements of the solicitation. The Unit Pricing includes all costs incidental to the provision of the items in compliance with the above documents; no additional payment will be made. Conditional offers that modify the solicitation requirements may be deemed not 'responsive' and County may not evaluate them. Contractor's submission of a signed proposal agreement will constitute a firm offer and upon the issuance of a MA document issued by the Pima County Procurement Director or authorized designee will form a binding contract that will require Contractor to provide the goods or services and materials described in this solicitation. The undersigned hereby offers to furnish the goods or services in compliance with all terms, conditions, specifications that the solicitation defines or references, which includes Pima County Standard Terms & Conditions, this Proposal Agreement and other documents as listed in this Proposal Agreement's "Other Documents" article.


SIGNATURE: ^{DocuSigned by:} Karthik Palani
E03EF9BB7A1A420... Karthik Palani

DATE: March 26, 2018
EVP, Global operations

PRINTED NAME & TITLE OF AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER

PHONE AND E-MAIL: _____

Approved "As to Form"


Tobin Rosen - Deputy County Attorney

2/21/18
Date

PIMA COUNTY STANDARD TERMS AND CONDITIONS

1. BID OPENING:

Pima County ("COUNTY") will publicly open responses and will read each respondent's name, and if a Bid the amount, on the date and at the location as stated in the *Invitation for Bid (IFB)* or *Request for Proposal (RFP)*. COUNTY will open proposals so as to avoid disclosure of the contents of any proposal to competing offerors during the process of negotiation. COUNTY invites all interested parties to attend the bid opening.

2. EVALUATION:

COUNTY will evaluate responses to determine which are most advantageous to COUNTY considering evaluation criteria, conformity to the specifications and other factors.

If COUNTY makes an award, COUNTY will enter into an agreement with one or more Contractor(s) that submitted the lowest responsive bid(s) that COUNTY determined responsible for supplying the required goods or services. Unless otherwise specified on the Bid or Proposal document, COUNTY will determine the low or lowest bids considering the total bid amount.

COUNTY, at its sole discretion, reserves the following rights: 1) to waive informalities in the bid or bid procedure; 2) to reject the response of any persons or corporations that have previously defaulted on any contract with COUNTY or who have engaged in conduct that constitutes a cause for debarment or suspension as set forth in COUNTY Code section 11.32; 3) to reject any and all responses; 4) to re-advertise for bids previously rejected; 5) to otherwise provide for the purchase of such equipment, supplies materials and services as may be required herein; 6) to award on the basis of price and other factors, including but not limited to such factors as delivery time, quality, uniformity of product, suitability for the intended task, and bidder's ability to supply; 7) to increase or decrease the item quantity or eliminate any item of this solicitation prior to the award. Pricing evaluations will be based on pre-tax pricing proposed by Contractor.

3. AWARD NOTICE:

COUNTY will post a *Notice of Recommendation for Award* for IFB or RFP on the Procurement website available for review by interested parties. The Procurement Department will maintain a tabulation of responses.

4. AWARD:

Either the Procurement Director or the Board of Supervisors will make the contract award in accordance with the Pima County Procurement Code. COUNTY reserves the right to reject any or all proposals, bids or proposals or to waive irregularities and informalities in the best interest of COUNTY. Unless COUNTY expressly agrees otherwise, resulting contracts are not exclusive, they are for the sole convenience of COUNTY, and COUNTY reserves the right to obtain like goods or services from other sources.

5. WAIVER:

Each offeror, by submission of a proposal, bid or proposal waives any and all claims for damages against COUNTY or its officers or employees when COUNTY exercises any of its reserved rights.

6. ACKNOWLEDGEMENT AND ACCEPTANCE:

If Contractor's terms of sale are inconsistent with the terms of the resultant contract, the terms herein will govern, unless COUNTY accepts Contractor's terms in writing. No oral agreement or understanding will in any way modify this contract or the terms and conditions herein. Contractor's acceptance, delivery or performance called for herein will constitute unqualified acceptance of the terms and conditions of the resultant contract.

7. INTERPRETATION and APPLICABLE LAW:

The laws of the State of Arizona govern the interpretation and construction of this Contract. If any of Contractors' terms or conditions is not in agreement with County's terms and conditions as set forth herein, COUNTY's will govern. This contract incorporates the complete agreement of the parties with respect to the subject matter of this contract. No oral agreement or other understanding will in any way modify the terms and conditions of this contract.

8. WARRANTY:

Contractor warrants goods or services to be satisfactory and free from defects.

9. QUANTITY:

Contractor will not exceed or reduce the quantity of goods ordered without written permission from COUNTY in the form of a properly executed Master Agreement, Purchase Order, Delivery Order or Delivery Order Maximo revision or amendment as the COUNTY's Procurement Code requires. All quantities are estimates and COUNTY provides no guarantee regarding actual usage.

10. PACKING:

Contractor will make no extra charges for packaging or packing material. Contractor is responsible for safe packaging conforming to carrier's requirements.

11. DELIVERY:

On-time delivery of goods and services is an essential part of the consideration that COUNTY will receive.

Contractor must provide a guaranteed delivery date, or interval period from order release date to delivery if the Price proposal document requires it. Upon receipt of notification of delivery delay, COUNTY at its sole option and at no cost to COUNTY may cancel the order or extend delivery times. Such extension of delivery times will not be valid unless an authorized representative of COUNTY extends it to Contractor in writing.

To mitigate or prevent damages from delayed delivery, COUNTY may require Contractor to deliver additional quantity utilizing express modes of transport, or overtime, all costs to be Contractor's responsibility. COUNTY reserves the right to cancel any delinquent order, procure from an alternate source, or refuse receipt of or return delayed deliveries, all at no cost to COUNTY. COUNTY reserves the right to cancel any order or refuse delivery upon default by Contractor concerning time, cost, or manner of delivery.

Contractor is not responsible for unforeseen delays caused by fires, strikes, acts of God, or other causes beyond Contractor's control, provided that Contractor provides COUNTY immediate notice of delay.

12. SPECIFICATION CHANGES:

COUNTY has the right to make changes in the specifications, services, or terms and conditions of an order. If such changes cause an increase or decrease in the amount due under an order or in time required for performance, COUNTY will make an acceptable adjustment and will modify the order in writing. No verbal agreement for adjustment is acceptable.

Nothing in this clause reduces Contractor's responsibility to proceed without delay in the delivery or performance of an order.

13. INSPECTION:

COUNTY may inspect or test all goods and services at place of manufacture, destination, or both. Contractor will hold goods failing to meet specifications of the order or contract at Contractor's risk and COUNTY may return such goods to Contractor with costs for transportation, unpacking, inspection, repacking, reshipping, restocking or other like expenses to be the responsibility of Contractor. In lieu of return of nonconforming supplies, COUNTY, at its sole discretion and without prejudice to COUNTY's rights, may waive any nonconformity, receive the delivery, and treat the defect(s) as a warranty item, but any waiver of any condition will not apply to subsequent shipments or deliveries.

14. SHIPPING TERMS:

Unless the contract states otherwise, delivery terms are to be F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destination") and Contractor is to include such terms in its Unit Price proposal.

15. PAYMENT TERMS:

Payment terms are net thirty (30) days, unless the contract specifies otherwise.

16. ACCEPTANCE OF MATERIALS AND SERVICES:

COUNTY will not execute an acceptance or authorize payment for any service, equipment or component prior to delivery and verification that the delivery meets all specification requirements.

17. RIGHTS AND REMEDIES OF COUNTY FOR DEFAULT:

In the event any item that Contractor furnishes in the performance of the contract should fail to conform to the specifications thereof, or to the sample that Contractor submitted, COUNTY may reject same, and it thereupon becomes the duty of Contractor to reclaim and remove the same, without expense to COUNTY, and immediately replace all such

rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse immediately to do so, COUNTY has the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any monies due or that may become due to Contractor the difference between the price named in the Master Agreement or Purchase Order and the actual cost to COUNTY.

In the event Contractor fails to make prompt delivery as specified of any item, the same conditions as to the rights of COUNTY to purchase in the open market and invoke the reimbursement condition above apply, except when delivery is delayed by fire, strike, freight embargo, or acts of god or of the government. In the event of cancellation of the Master Agreement, Purchase Order or associated orders, either in whole or in part, by reason of the default or breach by Contractor, Contractor will bear and pay for any loss or damage sustained by COUNTY in procuring any items which the Contractor agreed to supply. The rights and remedies of COUNTY provided above are not exclusive and are in addition to any other rights and remedies provided by law or under the contract.

18. FRAUD AND COLLUSION:

Each Contractor, by submission of a bid, certifies that no officer or employee of COUNTY or of any subdivision thereof: 1) has aided or assisted Contractor in securing or attempting to secure a contract to furnish labor, materials or supplies at a higher price than that proposed by any other Contractor; 2) has favored one Contractor over another by giving or withholding information or by willfully misleading the bidder in regard to the character of the material or supplies called for or the conditions under which the proposed work is to be done; 3) will knowingly accept materials or supplies of a quality inferior to those called for by any contract; 4) has any direct or indirect financial interest in the proposal or resulting contract. Additionally, during the conduct of business with COUNTY, Contractor will not knowingly certify, or induce others to certify, to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of material or supplies that has been actually received. If COUNTY finds at any time that Contractor has in presenting any proposal(s) colluded with any other party or parties for the purpose of preventing any other proposal being made, then COUNTY will terminate any contract so awarded and that person or entity will be liable for all damages that COUNTY sustains.

19. COOPERATIVE USE OF RESULTING CONTRACT:

As allowed by law, COUNTY has entered into cooperative procurement agreements that enable other Public Agencies to utilize procurement agreements that COUNTY has developed. Participating agencies may contact Contractor with requests to provide services and products pursuant to the pricing, terms and conditions defined by the COUNTY Master Agreement, or Purchase Order. Minor adjustments are allowed subject to agreement by both Contractor and Requesting Party to accommodate additional cost or other factors not present in the COUNTY's agreement and required to satisfy particular Public Agency code or functional requirements and within the intended scope of the solicitation and resulting contract. The parties to the cooperative procurement will negotiate and transact any such usage in accordance with State, COUNTY and other Public Agency procurement rules, regulations and requirements. Contractor will hold harmless COUNTY, its officers, employees, and agents from and against all liability, including without limitation payment and performance associated with such use. Contractor may view a list of agencies that are authorized to use COUNTY contracts at the Procurement Department Internet home page: <http://www.pima.gov/procure> by selecting the link titled *Authorized Use of COUNTY Contracts*.

20. PATENT INDEMNITY:

Contractor will indemnify, defend and hold COUNTY, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Master Agreement, Purchase Order, and associated orders. COUNTY may require Contractor to furnish a bond or other indemnification to COUNTY against any and all loss, damage, costs, expenses, claims and liability for patent or copyright infringement.

21. INDEMNIFICATION:

Contractor will indemnify, defend, and hold harmless COUNTY, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by Contractor, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of the Master Agreement, Purchase Order or associated orders. Contractor warrants that all products and services provided under this contract are non-infringing. Contractor will indemnify, defend and hold COUNTY harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

22. UNFAIR COMPETITION AND OTHER LAWS:

Responses must comply with Arizona trade and commerce laws (Title 44 A.R.S.) and all other applicable COUNTY, State, and Federal laws and regulations.

23. COMPLIANCE WITH LAWS:

Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. In the event any services that Contractor provides under this contract require a license issued by the Arizona Registrar of Contractors (ROC), Contractor certifies that a contractor licensed by ROC to perform those services in Arizona will provide such services. The laws and regulations of the State of Arizona govern the rights, performance and disputes of and between the parties. Any action relating to this Contract must be filed and maintained in a court of the State of Arizona in Pima County.

Any changes in the governing laws, rules, and regulations during an agreement apply, but do not require an amendment or revisions.

24. ASSIGNMENT:

Contractor may not assign its rights to the contract, in whole or in part, without prior written approval of COUNTY. COUNTY may withhold approval at its sole discretion, provided that COUNTY will not unreasonably withhold such approval.

25. CONFLICT OF INTEREST:

This contract is subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of all COUNTY Master Agreements or Purchase Orders as if set forth in full therein.

26. NON-DISCRIMINATION:

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this contract as if set forth in full herein including flow down of all provisions and requirements to any subcontractors. During the performance of this contract, CONTRACTOR must 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.

27. NON-APPROPRIATION OF FUNDS:

COUNTY may cancel this contract pursuant to A.R.S. § 11-251(42) if for any reason the COUNTY Board of Supervisors does not appropriate funds for the stated purpose of maintaining the contract. In the event of such cancellation, COUNTY has no further obligation, other than payment for services or goods that COUNTY has already received.

28. PUBLIC RECORDS:

Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

The Contractor agrees to waive confidentiality of any price terms in the event of a contract award.

29. CUSTOM TOOLING, DOCUMENTATION AND TRANSITIONAL SUPPORT:

Costs to develop all tooling and documentation, such as and not limited to dies, molds, jigs, fixtures, artwork, film, patterns, digital files, work instructions, drawings, etc. necessary to provide the contracted services or products and

unique to the services or products supplied to COUNTY are included in the agreed upon Unit Price unless the contract specifically states otherwise. Such tools and documentation are the property of COUNTY and will be marked, as is

practical, as the "Property of Pima County" and COUNTY so requests, Contractor will deliver a copy of the tooling and documentation to COUNTY within twenty (20) days of acceptance by COUNTY of the first article sample, or not later than ten (10) days of termination of the contract associated with their development, without additional cost to COUNTY. Contractor also agrees to act in good faith to facilitate the transition of work to a subsequent Contractor if and as reasonably requested by COUNTY at no additional cost. Should exceptional circumstances be present that may justify an additional charge, Contractor may submit said justification and proposed cost and negotiate an agreement acceptable to both Contractor and COUNTY, but Contractor may not withhold any requested tooling, document or support as defined above that would delay the orderly, efficient and prompt transition of work. Should conduct by Contractor result in additional costs to COUNTY, Contractor will reimburse COUNTY for said actual and incremental costs provided that COUNTY has given Contractor reasonable time to respond to COUNTY's requests for support.

30. AMERICANS WITH DISABILITIES ACT:

Contractor will comply with all applicable provisions of the Americans with Disabilities Act (public law 101-336, 42 USC 12101-12213) and all applicable federal regulations under the act, including 28 CFR parts 35 and 36.

31. NON-EXCLUSIVE:

Contracts resulting from this solicitation are non-exclusive and are for the sole convenience of COUNTY, which reserves the right to obtain like goods and services from other sources for any reason.

32. PROTESTS:

An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award. Protests must be in accordance with the Pima County Procurement Code, Section 11.20.010.

33. TERMINATION:

COUNTY reserves the right to terminate any Master Agreement, Purchase Order, Delivery Order, Delivery Order Maximo or award, in whole or in part, at any time, without penalty or recourse, when in the best interests of COUNTY. Upon receipt of written notice, Contractor will immediately cease all work as directed by the notice, notify all subcontractors of the effective date of termination and take appropriate actions to minimize further costs to COUNTY. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract become the property of COUNTY and Contractor must promptly deliver them to COUNTY. Contractor is entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures defined by A.A.C. R2-7-701 apply.

34. ORDER OF PRECEDENCE-CONFLICTING DOCUMENTS:

In the event of inconsistencies between contract documents, the following is the order of precedence, superior to subordinate, that will apply to resolve the inconsistency: Master Agreement, Delivery Order or Delivery Order Maximo, Purchase Order, Offer Agreement or contract attached to a Master Agreement, Purchase Order, Delivery Order or Delivery Order Maximo; these standard terms and conditions; any other solicitation documents.

35. INDEPENDENT CONTRACTOR:

The status of Contractor is that of an independent Contractor. Contractor and Contractor officer's agents or employees are not considered employees of COUNTY and are not entitled to receive any employment-related fringe benefits under the COUNTY Merit System. Contractor is responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and will indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of Contractor's failure to pay such taxes. Contractor is solely responsible for its program development and operation.

36. BOOKS AND RECORDS:

Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of COUNTY. In addition, Contractor will retain all records relating to this contract at least five (5) years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

37. COUNTERPARTS:

The parties may execute the Master Agreement or Purchase Order that COUNTY awards pursuant to this solicitation in any number of counterparts, and each counterpart is considered an original, and together such counterparts constitute one and the same instrument. For the purposes of the Master Agreement and Purchase Order, the signed proposal of Contractor and the signed acceptance of COUNTY are each an original and together constitute a binding Master Agreement, if all other requirements for execution are present.

38. AUTHORITY TO CONTRACT:

Contractor warrants its right and power to enter into the Master Agreement or Purchase Order. If any court or administrative agency determines that COUNTY does not have authority to enter into the Master Agreement or Purchase Order, COUNTY is not liable to Contractor or any third party by reason of such determination or by reason of the Master Agreement or Purchase order.

39. FULL AND COMPLETE PERFORMANCE:

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of the Master Agreement, Purchase Order, Delivery Order or Delivery Order Maximo to be performed on the part of the other, or to take any action permitted as a result thereof, is not a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future.

The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.

40. SUBCONTRACTORS:

CONTRACTOR is fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts CONTRACTOR may be liable to the same extent that CONTRACTOR is responsible for the acts and omissions of persons that it directly employs. Nothing in this contract creates any obligation on the part of COUNTY to pay or see to the payment of any money due any subcontractor, except as may be required by law.

41. SEVERABILITY:

Each provision of this Contract stands alone, and any provision of this Contract that a court finds to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

42. LEGAL ARIZONA WORKERS ACT COMPLIANCE:

CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR will further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

COUNTY has the right at any time to inspect the books and records of CONTRACTOR and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of CONTRACTOR's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting CONTRACTOR to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, CONTRACTOR will take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion.

CONTRACTOR will advise each subcontractor of COUNTY's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that COUNTY may inspect the SUBCONTRACTOR's books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR is a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article is the responsibility of CONTRACTOR. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of CONTRACTOR's approved construction or critical milestones schedule, such period of delay will be excusable delay for which CONTRACTOR is entitled to an extension of time, but not costs.

43. CONTROL OF DATA PROVIDED BY COUNTY:

For those projects and contracts where COUNTY has provided data to enable the Contractor to provide contracted services or products, unless COUNTY otherwise specifies and agrees in writing, Contractor will treat, control and limit access to said information as confidential and will under no circumstances release any data provided by COUNTY during the term of this contract and thereafter, including but not limited to personal identifying information as defined by A.R.S. § 44-1373, and Contractor is further prohibited from selling such data directly or through a third party. Upon termination or completion of the contract, Contractor will either return all such data to COUNTY or will destroy such data and confirm destruction in writing in a timely manner not to exceed sixty (60) calendar days.

44. ISRAEL BOYCOTT CERTIFICATION:

Contractor hereby certifies that it is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by Contractor may result in action by the County up to and including termination of this Contract.

END OF PIMA COUNTY STANDARD TERMS AND CONDITIONS

PIMA COUNTY APPLICATION HOSTING TERMS AND CONDITIONS

1.0 Application Hosting Terms and Conditions

1.1 DATA OWNERSHIP, AVAILABILITY AND SECURITY

If Licensee hosts with the Vendor, Vendor will offer at no cost to the Licensee database backup files and/or a standard formatted export file upon request and agrees that all data populated by Licensee User (s) is owned by Licensee and will be provided to Licensee in electronic database backup format or export file format, if requested by Licensee at any time during the agreement term and at the end of this agreement at no cost to the Licensee. Vendor also agrees that all Licensee information housed within the Solution is private and owned by the Licensee and is not to be shared with any other customer, vendor or third party unless Licensee grants that right.

Vendor also agrees that:

- information resides in a highly secure and redundant data center environment that is recoverable within a two hour window in the event of a primary data center / network disaster / outage
- the data center environment is physically secure with employee and customer access / monitoring control practices in place and adhered to, and customers / visitors are escorted at all times within the data center environment
- security release upgrades and monitoring practices are in place and adhered to, and vendor security practices require critical vendor security patches to be implemented within 24 hours of vendor's release of the security patch
- intrusion detection is conducted by the vendor at least once per year with results published, vendor actions taken with both being available for customer review

1.1A LICENSEE DATA- shall mean all data or information stored or hosted by Licensee, with the Hosted Services or System, or provided by or on behalf of Licensee, for storage or hosting in connection with the System, including, without limitation, the data provided by Licensee's internal and external data sources. The Licensee Data and Solution shall be considered Licensee Confidential Information.

1.1B CONFIDENTIALITY- Vendor on behalf of itself and its employees / subcontractors, agrees to hold in confidence, not disclose, and not use for its own benefit, any of Licensee's Confidential Information.

1.1C DATA OWNERSHIP- All Licensee Confidential Information (including, without limitation, any Licensee Data, whether in existence at the Effective Date, and/or compiled thereafter in the course of performing the Services, shall be treated by Vendor and its subcontractors as the exclusive property of Licensee and the furnishing of such the Licensee Confidential Information, or access to such items by, Vendor and/or its subcontractors, shall not grant any express or implied interest in such Licensee Confidential Information to Vendor and/or its subcontractors, and Vendor's and its subcontractors' use of such Licensee Confidential Information and Licensee Data shall be limited to such use as is necessary to perform and provide the Services. Upon demand by the Licensee at any time and from time to time and without regard to a Party's default under the Agreement, Vendor and/or its subcontractors shall promptly deliver the Licensee Confidential Information and Licensee Data to Licensee in electronic format and in such hard copy as exists on the date of the request by the Licensee. Licensee data shall not be accessible by any other Customer or Vendor of Vendor unless express written approval is provided by the Licensee and all appropriate legal documents have been signed by all Parties.

1.1D AUDIT- During the Term, and for a period of five (5) years thereafter, or such longer period as may be required by any law, rule, or regulation applicable to Licensee, Vendor shall maintain and provide, and shall ensure that its subcontractors maintain and provide, access, electronic or otherwise, to complete and accurate books, records, documents, data (specifically excluding Licensee Data), and information relating to Vendor's performance (and any Vendor subcontractor's performance) pursuant to this Agreement, (the "Records"). All such records, documents, data and information shall be maintained in such form (for example, in paper or electronic form) as Licensee may reasonably direct. Vendor shall provide Licensee a letter from its chief financial officer verifying that information provided by Vendor to Licensee conforms to the reporting methodology set forth herein. Licensee shall have the right, during business hours, at its own expense (except as otherwise provided herein), and upon ten (10) days' notice (except to the extent Licensee is unable, using commercially reasonable efforts, to provide such notice and comply with applicable law or the requests of legal authorities), to audit, review, and copy the Records for any reasonable business purpose. Vendor shall provide to Licensee such assistance

as it reasonably requires in connection with audits or examinations pursuant to this Section. Vendor shall reasonably cooperate with Licensee and its designees in connection with audit functions and with regard to examinations by legal authorities, if required. If any audit or examination reveals that Vendor's invoices for the audited period are not correct, Vendor shall promptly reimburse Licensee for the amount of any overcharges plus an additional amount equal to five percent (5%) of the amount of any overcharge, or Licensee shall promptly pay Vendor for the amount of any undercharges subject to the terms of the Agreement. Any amounts unpaid by Vendor may be set-off by Licensee against any other amounts that may be due to Vendor under the Agreement. If any audit reveals a discrepancy of more than five percent (5%) of the invoiced amount for any period audited or any non-trivial breach (es) of Vendor's obligation to timely and properly provide and perform the Services, Vendor shall bear the cost of such audit. Nothing in the Agreement shall limit or restrict the rights of either party in discovery proceedings pursuant to any civil litigation or governmental, regulatory or criminal proceeding.

1.1E AVAILABILITY- During any calendar month, Licensee's Solution will be available minimally 99% of the time between the hours of 6am – 9pm Arizona time zone. Vendor will measure this availability and report any variances to this to the Licensee on a monthly basis through its monthly invoicing process. Any availability less than 75% results in a no-charge monthly charge to the Licensee. Availability between 76% and 95% results in a 75% charge of the monthly invoice to the Licensee. Between 96% and 98% results in a 95% charge of the monthly invoice to the Licensee. Availability will be measured through Vendor Data Center trouble ticket process from time of outage to time of restore.

1.1F OWNERSHIP AND SCOPE OF USE – SOFTWARE- The Software is owned by Vendor. In connection with the Services hereunder and subject to Licensee's rights upon a release of Code in Escrow, Licensee is granted limited use access rights to the Software only by Licensee's employees or Providers who assist Licensee in this area.

1.1G SYSTEM RESPONSIVENESS- Licensee Solution online web transaction screens will respond to any Licensee employee within 4 seconds of pressing the enter key. Respond means that the web transaction screen or its embedded data / command(s) have been sent across the Internet. 95% of all web transaction screens will fall within this 4 second window. On any day of a calendar month that 95% of the web transaction screens fail to achieve the 95% minimum, 1/30th of the monthly charge will be deducted from the Licensee's monthly invoice.

1.1H SECURITY- Vendor shall establish and maintain security for Licensee Data and the System as well as access that include the following requirements:

- (i) *Physical Security.* Vendor offices and data center shall only be accessible to authorized personnel. All visitors or third parties must fill out the office log and if required, the data center access log, which maintains a record of the following:
 - Visitor name
 - Date of Visit
 - Time of Entry
 - Purpose of Visit
 - Time of Departure
 - Initials of Escort
- (ii) *Network Security.* Vendor's servers shall be fire-walled from the Internet at large. Inbound access to the Vendor environment will be controlled using a series of firewalls, switches, and application layer controls. By default, all inbound network access is blocked. The traffic that has been deemed necessary is explicitly permitted inbound as follows:
Inbound access from the Internet to the Vendor network will only be permitted based on the following rules:
 - Access to the Web Application Servers is permitted on specific ports; all other ports are blocked. This network-layer port filtering occurs on both the external firewalls and the internal "DMZ" switches. Inbound traffic must filter through both external hardware devices and an IDS (Intrusion Detection System) sensor located within the DMZ prior to passing on to the Web Application Server.
 - Access to the communications cluster is permitted based on strict access-list controls based on the sender's IP address(es). As Vendor establishes a transmission relationship with a

- manufacturer, wholesaler, or VAN, the IP address and the port number are hard coded into the external firewalls. Only traffic originating from authorized parties over a pre-defined, non-standard port is allowed into the communications environment. An additional conduit has been opened to a third party vendor to allow for daily vulnerability scans to take place.
- Optionally Vendor customers can enable "Advanced Security", which forces users to originate from a pre-defined IP address or range in order to access the Vendor application.
- (iii) *Hardware Security.* Licensee Data shall be stored in environments consistent with data redundancy and data protection standards necessary for recovery and maintenance. In the event of individual drive failure, no degradation of access level or time shall occur. Vendor shall provide regular backup of the Licensee Data to both a network accessible storage appliance at all times as well as off-site storage of said backup data.
- (iv) *System Application Security.* Vendor's System shall maintain limited accessibility with all user access and control managed through password security that is under the control of the Licensee. Complete control is in the hands of authorized Licensee designated administrative user(s). Licensee shall determine what access a user is allowed to have and whether any restrictions will be put in place for a given user.
- (v) *Security Audits.* Vendor shall schedule regular security audits at the firewall level, the server level, and the application level, consistent with control objectives and processes defined in the data center's SAS70 audit process. Vendor shall provide the capability for using strong passwords to access the application by a Licensee but it will be the responsibility of the Licensee to verify that only strong passwords are implemented and that they are changed at a Licensee acceptable frequency.

1.2 VENDOR DISCONTINUES SOLUTION ACCESS OR CEASES OPERATIONS

If Vendor plans to cease providing hosted Solution access to the Licensee or to Cease Operations entirely due to bankruptcy or other reason, Vendor is responsible for providing the current Licensee data, current Vendor source code / object code of the Vendor Software and Documentation (Vendor Solution) to the Licensee. In such case, Licensee shall have the right to support this Vendor Solution internally within its organization going forward at no cost to the Licensee. In no event shall the source code be used for any other purpose. In no event shall the title or any rights, including intellectual property rights, to the proprietary and trade secret source code be transferred to Licensee. The mechanisms for deposit, maintenance, and release of software to and from the escrow agent will be pursuant to the terms of a mutually agreed escrow agreement executed concurrently with the License, and this escrow agreement will not include additional or different terms for the Vendor Solution to Licensee than those described above, and shall include express provisions requiring Vendor to notify the Escrow Agent of any prospective bankruptcy filing, and requiring the Escrow Agent to release the source and object codes to Licensee before any bankruptcy filing by Vendor.

END OF PIMA COUNTY APPLICATION HOSTING TERMS AND CONDITIONS

Pima County RFP Response

Joint Proposal Submission by Exterro, Inc. and FTI Consulting

Pima County Solicitation Number: 287802

Title: eDiscovery

PART IV: EXHIBIT B - COST PROPOSAL

The contents of this contract are confidential. Requests for a copy shall be submitted to the Clerk of the Board by completing a Public Records Request pursuant to County Administrative Procedure 4-4. The Public Records Request form can be located at webcms.pima.gov under the 'Quick Links' section. Release of confidential contract information involves a process above and beyond the basic Public Records Request process. This process will be performed by the Procurement Department after the Clerk of the Board receives the completed Public Records Request.

If you have any questions, please call (520)724-8161.

Request for Clarification (RFC)

May 3, 2018

Mr. Kipp Mitchell
Exterro, Inc.
4145 SW Watson Ave., Ste. 400
Beaverton, OR 97005

Kipp.Mitchell@exterro.com

RE: Pima County, RFP #287802, eDiscovery

Dear Mr. Mitchell:

This Request for Clarification (RFC #1) is intended to obtain additional information to continue evaluating proposals for the above-mentioned solicitation. This request is divided in two sections; costs and contract related documents..

Costs:

Pima County is requesting five (5) year total cost of ownership for this procurement. Please provide costs over the next five years for the system(s) you have identified in your proposal by completing Exhibit B: Cost Proposal. This exhibit was part of the original solicitation.

Contract Related Documents:

In Exterro's response to the Implementation Approach, it was stated that *This Process takes place after all subscriptions and licensing agreements are worked out.* Pima County has not received a copy of Exterro's subscriptions and licensing agreements. Please provide copies of the subscriptions and licensing agreements so that County may review. Additionally, please ensure that your response includes any exceptions to the Offer Agreement as well.

Pima County must obtain the documents posed in this RFC letter. Failure to provide the information required by this letter will be cause for County to reject Exterro's proposal as non-responsive.

Your response must be emailed to my attention at sal.servin@pima.gov at or before 3:00 PM (Arizona time) on May 7, 2018.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Sal Servin

Procurement Officer

Attachment: Exhibit B: Cost Proposal – RFC #1



May 7, 2018

Sal Servin
Pima County
RE: Pima County, RFP #287802, eDiscovery

Dear Mr. Servin,

Exterro is pleased to provide the following responses to your Request for Clarification. Exterro requires no exceptions to the Offer Agreement. The Offer Agreement was signed by our Global VP of Operations on March 26, 2018.

Costs:

We have completed your Cost Proposal spreadsheet. Please note that we have simply transferred our RFP pricing and provided extended calculations for five years. We will be happy to walk through the spreadsheet with you at your earliest convenience.

Contract Related Documents:

Per your request Exterro Master Subscription and Professional Services Agreement is attached (20180405 Exterro MSSA v3a).

Exterro Subscription Service Guide is also attached. This document provides the terms and conditions for our Support and Maintenance services.

Please let us know if you have any additional questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Bobby Jahanbani". The signature is fluid and cursive.

Bobby Jahanbani
Vice President, Sales

exterro

4145 SW Watson Ave., Suite 400
Beaverton, OR 97005
Direct: (949) 854-0624

Exhibit B: Cost Proposal (6 Pages)

Schedule 1: Summary

Summary of Total Software, Professional Services, and Maintenance /Support Costs

Software License Fees (Schedule 2)(*)(**)	\$ 1,398,000	Annual Subscription Fees. 70 user licenses included; each additional named user is \$1,500
Professional Services (Schedules 3):		
Implementation Services (Schedule 3)	\$ 75,000	Statement of Work needs to be scoped to create final Services pricing.
Data Conversion and Interfaces Estimate (Schedule 3)	\$ -	
Customizations/Custom Reports (Schedule 3)	\$ -	
Training (Schedule 4)	\$ 17,000	5 days on-site, up to 10 people, with each additional person is \$195
Travel and Other Costs (Schedule 6)	\$ 10,000	Estimate. Preapproved Expenses will be billed as incurred.

[Redacted]

[Redacted]

****Attach additional notes (if needed) to provide full explanation.**

Assumptions/Additional Comments

Note regarding five year software license fees: per section 7 of the Offer Agreement after initial year of the contract term the parties may consider price increases no more frequently than once per year. The above calculation provides a straight-line estimate of the annual subscription fees multiplied by five (5) but does estimate price increases that parties may agree to.

Professional Services Estimate is for the initial implementation of software in accordance with a mutually approved SOW and five (5) days of training.

Schedule 2: Licensing Fees
Detailed Licensing Fees By Module

Legal Hold			70	Support up to 200 holds annually
Compliance Portal				Unlimited Custodians
Exterro E-Discovery Data Management	Advanced search for eDiscovery or public records requests, culling, in-place ECA, collection, processing, review and production		70	Standard Connectors Desktop, Laptop, Email, and Network
Review Application			70	Supports up to twenty-five (25) Terabytes (TB) of unfiltered data and 2000 collection agents
Intelligent HR Integration Adapter for employee information from a single consolidated source via CSV, Single Sign-on (SSO) Integration Adapter for authentication (SAML 2.0)				
Other (Please list)				
Subtotal		\$	1,398,000	
Subtotal		\$	-	

****Attach additional notes (if needed) to provide full explanation.**

Hosted/Cloud Option (includes 1TB of data)		\$	300,000	
Employee Change Monitor - mitigate the risk of ESI spoliation when employees depart or change roles (50 monitors and 100 actions)		\$	123,500	

Assumptions/Additional Comments

If Hosted Option is not selected then software will be installed on Pima County hardware, matching the hardware specifications provided by Exterro. Pima County is responsible for all hardware costs.

Exhibit B: Cost Proposal (6 Pages)

Schedule 5: Maintenance and Support
Detailed Licensing Fees By Module

Software Maintenance & Support (Years 1-5)

Year One*	Included	Maintenance and Support fees are included in Annual Subscription Pricing.
Year Two	Included	All Updates are included
Year Three	Included	All Updates are included
Year Four	Included	All Updates are included
Year Five	Included	All Updates are included

Third Party Software Maintenance & Support (Years 1-5)

Year One*	N/A	
Year Two	N/A	
Year Three	N/A	
Year Four	N/A	
Year Five	N/A	

Software Maintenance & Support (Years 1-5) - OPTIONAL SOFTWARE (NOT INCLUDED IN SUMMARY)

Year One*	Included	*Vendors must state when maintenance and support costs start.
Year Two	Included	
Year Three	Included	
Year Four	Included	
Year Five	Included	

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If you have any questions, please call (520)724-8161.



Request for Clarification

RFP 287802, eDiscovery

May 11, 2018

Mr. Kipp Mitchell
Exterro, Inc.
4145 SW Watson Ave., Ste. 400
Beaverton, OR 97005

Kipp.Mitchell@exterro.com

RE: Pima County, RFP #287802, eDiscovery

Dear Mr. Mitchell:

This Request for Clarification (RFC #2) is intended to obtain additional information to continue evaluating proposals for the above-mentioned solicitation. This request is divided in two sections; costs and contract related documents..

Costs:

Pima County is requesting clarification related to Exterro's Exhibit B submittal in RFC #1. In Exterro's submittal, it was stated that *regarding five year software license fees: per section 7 of the Offer Agreement after initial year of the contract term the parties may consider price increases no more frequently than once per year. The above calculation provides a straight-line estimate of the annual subscription fees multiplied by five (5) but does estimate price increases that parties may agree to.* Please advise as to whether or not there is a cap on annual increases. Additionally, please advise as to the percentage of increase each year related to Exterro's proposal.

Contract Related Documents:

In Exterro's response to RFC #1, it was stated that the *Professional Services Estimate is for the initial implementation of software in accordance with a mutually approved SOW and five (5) days of training. Statement of Work needs to be scoped to create final Services pricing.* Exterro also made reference to a Standard and Non-Standard Implementation approach. Based on what Exterro has learned during this RFP effort, does Exterro consider Pima County to be a potential Standard or Non-Standard customer? And, what is the cost impact to final services pricing?

Pima County must obtain clarification and cost adjustments posed in this RFC letter. Failure to provide the information required by this letter will be cause for County to reject Exterro's proposal as non-responsive.

Your response must be emailed to my attention at sal.servin@pima.gov at or before 3:00 PM (Arizona time) on May 14, 2018.

If you have any questions, please do not hesitate to contact me.

Sincerely,
Sal Servin
Procurement Officer



May 11, 2018

Sal Servin
Pima County
RE: Pima County, RFP #287802, eDiscovery

Dear Mr. Servin,

Exterro is pleased to provide the following responses to your Request for Clarification #2.

Costs:

Pima County is requesting clarification related to Exterro's Exhibit B submittal in RFC #1. In Exterro's submittal, it was stated that **regarding five year software license fees: per section 7 of the Offer Agreement after initial year of the contract term the parties may consider price increases no more frequently than once per year. The above calculation provides a straight-line estimate of the annual subscription fees multiplied by five (5) but does estimate price increases that parties may agree to.** Please advise as to whether or not there is a cap on annual increases. Additionally, please advise as to the percentage of increase each year related to Exterro's proposal. **A cap on annual increases can be negotiated into the agreement. Our standard is: Annual Subscription fees may increase no more frequently than once per year by CPI or 5% whichever is higher.**

Contract Related Documents:

In Exterro's response to RFC #1, it was stated that the **Professional Services Estimate is for the initial implementation of software in accordance with a mutually approved SOW and five (5) days of training. Statement of Work needs to be scoped to create final Services pricing.** Exterro also made reference to a Standard and Non-Standard Implementation approach. Based on what Exterro has learned during this RFP effort, does Exterro consider Pima County to be a potential Standard or Non-Standard customer? And, what is the cost impact to final services pricing? **Exterro suggests a scoping call so that we can confirm your implementation requirements. Based on our current understanding of your requirements we anticipate Pima County to be a Standard implementation customer.**

Please let us know if you have any additional questions or comments.

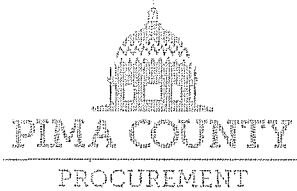
Sincerely,

Bobby Jahanbani
Vice President, Sales

exterro

4145 SW Watson Ave., Suite 400
Beaverton, OR 97005
Direct: (949) 854-0624

Best and Final Offer (BAFO)



130 W. Congress St., 3rd Floor
Tucson, Arizona 85701
Telephone (520) 724-9510, Fax (520) 222-1484

June 4, 2018

Mr. Kipp Mitchell
Exterro, Inc.
4145 SW Watson Ave., Ste. 400
Beaverton, OR 97005
Kipp.Mitchell@exterro.com

Email Transmission

RE: RFP No. 287802, eDiscovery, Best and Final Offer (BAFO)

Thank you for your participation in the request for clarification process of your proposal. In accordance with the conditions of the above mentioned solicitation, a written request for Best and Final Offer (BAFO) is hereby issued.

Pursuant to the terms of the RFP, BEST AND FINAL OFFER, the County reserves the right to request additional information and/or clarification with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements.

Please submit your best and final offer, including your explanation of any potential savings or reduction in cost to Pima County related to eDiscovery.

Your written BAFO shall include the attached Exhibit B Cost Proposal completed as requested, and shall ALSO include the following change as requested:

- Exhibit B, Schedule 2: Licensing Fees
FROM: Number of Users/Employees – 70
TO: Number of Users/Employees – 40

Your BAFO submittal shall be emailed to sal.servin@pima.gov by no later than 2:00 PM on Wednesday, June 6, 2018.

Sincerely,

Sal Servin

Sal Servin
Procurement Officer
Sal.Servin@pima.gov

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If you have any questions, please call (520)724-8161.

Exhibit B: Cost Proposal (6 Pages)

Schedule 1: Summary

Summary of Total Software, Professional Services, and Maintenance /Support Costs

Cost Categories	Proposed Cost	Explanation/Notes (if necessary)**
Software License Fees (Schedule 2)(*)(**)	\$ 1,194,255	Annual Subscription Fees. 40 user licenses included; each additional named user is \$1,500
Professional Services (Schedules 3):		
Implementation Services (Schedule 3)	\$ 75,000	Statement of Work needs to be scoped to create final Services pricing.
Data Conversion and Interfaces Estimate (Schedule 3)	\$ -	
Customizations/Custom Reports (Schedule 3)	\$ -	
Training (Schedule 4)	\$ 17,000	5 days on-site, up to 10 people, with each additional person is \$195
Travel and Other Costs (Schedule 6)	\$ 10,000	Estimate. Preapproved Expenses will be billed as incurred.
Year 1 additional BAFO incentive	\$ (10,000)	Applicable to year 1 of Software License Fees (expires 6/28/2018)
Total Cost During Project Period	\$ 1,286,255	

Total 5 Year Maintenance & Support Costs (Schedule 5)	\$ -
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5 Year Total Cost of Ownership	\$ 1,286,255
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****Attach additional notes (if needed) to provide full explanation.**

Assumptions/Additional Comments

Note: Updated on 06/06/2018 pricing to remain fixed for first three (3) years and after first three years increase by CPI or 4.5 whichever is higher. regarding five year software license fees: per section 7 of the Offer Agreement after initial year of the contract term the parties may consider price increases no more frequently than once per year. The above calculation provides a straight-line estimate of the annual subscription fees multiplied by five (5) but does estimate price increases that parties may agree to.

Professional Services Estimate is for the initial implementation of software in accordance with a mutually approved SOW and five (5) days of training.

Exhibit B: Cost Proposal (6 Pages)

Module	Functionality/Description	Proposed Cost	Number of Users/Employees	Fee Per User/Employee	Explanation/Notes (if necessary)**
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Exhibit B: Cost Proposal (6 Pages)

Schedule 5: Maintenance and Support
Detailed Licensing Fees By Module

Software Maintenance & Support (Years 1-5)

Period	Proposed Cost	Explanation/Notes (if necessary)
Year One*	Included	Maintenance and Support fees are included in Annual Subscription Pricing.
Year Two	Included	All Updates are included
Year Three	Included	All Updates are included
Year Four	Included	All Updates are included
Year Five	Included	All Updates are included
Total 5 Year Maintenance & Support Costs		

Third Party Software Maintenance & Support (Years 1-5)

Period	Proposed Cost	Explanation/Notes (if necessary)
Year One*	N/A	
Year Two	N/A	
Year Three	N/A	
Year Four	N/A	
Year Five	N/A	
Total 5 Year Maintenance & Support Costs		

Software Maintenance & Support (Years 1-5) - OPTIONAL SOFTWARE (NOT INCLUDED IN SUMMARY)

Period	Proposed Cost	Explanation/Notes (if necessary)
Year One*	Included	*Vendors must state when maintenance and support costs start.
Year Two	Included	
Year Three	Included	
Year Four	Included	
Year Five	Included	
Total 5 Year OPTIONAL Software Maintenance & Support Costs	\$	

Exhibit B: Cost Proposal (6 Pages)

Schedule 6: Travel & Other Costs

Description	Cost
Travel Estimate. Preapproved travel expenses will be billed as incurred.	\$10,000
Total	\$ 10,000
Other Costs for OPTIONAL Software	Cost
No additional costs if done in one session	
Total	\$ -

Assumptions/Additional Comments: Travel is estimated and will be billed as incurred

Please check all cell formulas!!

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If you have any questions, please call (520)724-8161.