



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: June 7, 2016

or Procurement Director Award

Contractor/Vendor Name (DBA): Recorded Books Inc. (Headquarters: Prince Frederick, MD)

Project Title/Description:

Audio Books on Compact Discs

Purpose:

Award of Contract: Master Agreement No. MA-PO-16-361. Contract is for an initial term of one year in a not to exceed amount of \$443,000.00 effective 9/15/2016 and includes four (4) one year renewals.

Administering Department: Library District

Procurement Method:

Pursuant to Pima County Procurement Code 11.24.010, Cooperative Procurement Authorized, the Procurement Director authorized the use of the Maricopa County Contract Serial 16070 RFP which were awarded through competitive procedures reasonably similar to those set forth in the Pima County Procurement Code.

Attached Documents: Master Agreement

Program Goals/Predicted Outcomes:

To continue to service Pima County residents with popular audiobooks on CD, digital audiobooks, electronic books (ebooks), streaming video and Kids of Great Courses.

Public Benefit:

The library bundles purchasing of their digital copies that provides additional savings which is a benefit to the public.

Metrics Available to Measure Performance:

The Public Library shall monitor Recorded Books performance and ensure they comply with the contract.

Retroactive:

No

Original Information

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 16-361

Effective Date: 09/15/2016 Termination Date: 09/14/2017 Prior Contract Number (Synergen/CMS):

Expense Amount: \$ 443,000.00 Revenue Amount: \$

Funding Source(s): Library District Fund

Cost to Pima County General Fund:

Contract is fully or partially funded with Federal Funds? Yes No Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? Yes No Not Applicable to Grant Awards

Vendor is using a Social Security Number? Yes No Not Applicable to Grant Awards

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

Amendment Information

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

Amendment No.: AMS Version No.:

Effective Date: New Termination Date:

Expense Revenue Increase Decrease Amount This Amendment: \$

Funding Source(s):

Cost to Pima County General Fund:

Contact: John Nanosky 5/11/16 7/11/16 5/11/16

Department: Procurement May 11 5/11/16 Telephone: 520-724-8165

Department Director Signature/Date: John Nanosky 5-13-16

Deputy County Administrator Signature/Date: John Burke 5-16-16

County Administrator Signature/Date:
(Required for Board Agenda/Addendum Items) C. Delecto 5/16/16



MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 1600000000000000361

MA Version: 1

Page: 1

Description: Audio Books on Compact Discs

I S S U E R	<p>Pima County Procurement Department 130 W. Congress St. 3rd Fl Tucson AZ 85701</p> <p>Issued By: JOHN NANOSKY Phone: 5207248165 Email: john.nanosky@pima.gov</p>	T E R M S	<p>Initiation Date: 09-15-2016 Expiration Date: 09-14-2017</p> <p>NTE Amount: \$443,000.00 Used Amount: \$0.00</p>
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V E N D O R	<p>Recorded Books Inc 270 Skipjack Road Prince Frederick MD 20678</p>	<p>Contact: Craig Mears Phone: 800-638-1304 Email: cmears@recordedbooks.com Terms: 0.0000 % Days: 30</p>
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<p>Shipping Method: Delivery Type: STANDARD GROUND FOB:</p> <p>Modification Reason MA-PO-16-361 awards a one year contract with four(4) one year renewals to Recorded Books Inc for audio books on compact discs in a not-to-exceed amount of \$443,000.00 Attachment: Offer Agreement</p>
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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.



MASTER AGREEMENT DETAILS

Master Agreement No: 16000000000000000361

MA Version: 1

Page: 2

Line	Description	UOM	Unit Price	Stock Code	VPN	MPN
1	Audiobooks on CD	UOM EA	Unit Price \$90	Stock Code	VPN	MPN
	Discount 0.0000 %					
2	cataloging and processing	UOM EA	Unit Price \$2.5	Stock Code	VPN	MPN
	Discount 0.0000 %					
3	Ebooks	UOM EA	Unit Price \$65	Stock Code	VPN	MPN
	Discount 0.0000 %					
4	digital Audiobooks	UOM EA	Unit Price \$90	Stock Code	VPN	MPN
	Discount 0.0000 %					
5	ebooks, digital audiobook collection	UOM YEAR	Unit Price \$48400	Stock Code	VPN	MPN
	Discount 0.0000 %					
6	streaming video plus platform	UOM EA	Unit Price \$16000	Stock Code	VPN	MPN
	Discount 0.0000 %					
7	kits of Great Courses	UOM EA	Unit Price \$200	Stock Code	VPN	MPN
	Discount 0.0000 %					

PIMA COUNTY OFFER AGREEMENT



As authorized by
Cooperative Agreement Procurement Process

PIMA COUNTY SOLICITATION 214182 TITLE: Audio Books on Compact Discs
PROCUREMENT

TRANSMITTED TO: Mark Haley Tel: (303) 478-4105

National Account Manager
Recorded Books E-Mail: mhaley@recordedbook.com
270 Skipjack Road
Prince Frederick, MD 20678

SOLICITATION: Pima County (COUNTY) is soliciting an offer agreement from Recorded Books to provide the products in compliance with the attached Offer Agreement in the estimated annual award amount of \$ 445,000.00

INSTRUCTIONS REGARDING SUBMISSION OF OFFER:

Recorded Books to whom this OFFER AGREEMENT is transmitted is requested to complete, execute and submit the Offer Agreement (pages 1 through 15) and must insure to complete the information and sign the following articles that are to be submitted in pages 1 thru 15.

Offer Agreement, Section 14 Bid Certification information and signature.

Questions may be submitted to John Nanosky, Telephone (520) 740-8165

SUBMIT THE REQUESTED OFFER AGREEMENT DOCUMENT ON OR BEFORE May 20, 2016 TO:

Pima County Procurement Department; 130 West Congress, Mailstop DT-AB3-126, 3rd Floor; Tucson, Arizona 85701
Attention: John Nanosky

1. An original of the Offer Agreement listed document above shall be delivered to the above address as hard copy.

2. A copy of the completed Offer Agreement Document listed above shall be e-mailed to john.nanosky@pima.gov or faxed to John Nanosky at (520)-791-6513

John Nanosky
Commodity Contracts Officer
Pima County Procurement
-re': (520) 740-8165
Fax: (520) 791-6513
E-Mail: john.nanosky@pima.gov

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1. INTENT:

Utilizing the Maricopa County Contract Serial 16070 RFP for Library Materials & Related Services with Recorded Books and pursuant to Cooperative Procurement Authorized by Procurement Code 1.1.24.010, the intent of this document is to establish an indefinite delivery/indefinite quantity purchase agreement contract to provide Pima County ("County") with such quantities of quality, unabridged audio books on compact discs, as the County may order on an "as needed basis" by issue of purchase orders pursuant to a resulting executed and effective agreement, County will award an agreement for the purchase of goods and services as specified herein, and Supplier will receive compensation when goods are rendered as per the terms defined in the scope of services

Although particular County Departments may be identified in the solicitation, unless otherwise documented by the executed agreement documents only the Pima County Public Library District may utilize the resulting agreement. The County reserves the right to add like items to this agreement using the pricing from the Maricopa County Serial 16070

OFFER AGREEMENT

Solicitation #: 214182 Title: Audio Books on Compact Discs 1 of 15

RFP or using quotations from Recorded Books that are mutually agreed upon by both parties for these additional products.

All Goods and Services offered or provided pursuant to the resulting executed and effective agreement shall conform to the requirements defined by this Offer Agreement and the Maricopa County Contract Serial 10552 RFP all of which are incorporated herein.

It is the intent of all parties to this agreement that this document, including all attachments and documents incorporated by reference, constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.

2. CONTRACT TERM EXTENSIONS-RENEWALS & REVISIONS:

The initial term of the contract will be for a one year period and include four (4) one-year renewals that may be exercised upon the written agreement of the parties as follows:

Proposed extension or renewals of the contract if included in the contract and revisions to the contract shall be made through the issuance by County to Contractor of a revised Master Agreement (MA) document setting forth the requested changes. Failure by Contractor to object in writing to the proposed revisions, terms, conditions and/or specifications within ten (10) calendar days of issuance by County will signify acceptance of all such changes by Contractor and the amendment 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 license required by applicable Agencies to satisfy the requirements of this contract.

1) Contractor has been in the business of providing this product for a minimum of five consecutive years including the current year to a large, multiple branch public library system with urban, suburban and rural locations.

CHECKLIST FORMNIMUM QUALIFICATIONS MARK RESPONSE (Failure to mark answer may result in the offer being deemed non-responsive).

Contractor certifies they are competent, willing and responsible for providing the

materials/services in accordance with all requirements of the solicitation and this Offer Agreement.

Yes No

Contractor certifies they have been in the business of providing this product for a minimum of five consecutive years including the current year to a large, multiple branch, public library system with urban, suburban and rural locations.

Yes No

4. SCOPE SERVICES & SPECIFICATIONS

Recorded Books shall provide the Pima County Public Library with quality, unabridged audio books on compact discs including but not limited to best sellers, Agatha Christie reissues, contemporary African-American fiction, inspirational and motivational non-fiction per the and the requirements and specifications listed below and contained within this entire solicitation.

- 4.1 Supplier shall have the capability to supply fully cataloged and processed unabridged audio books in compact disc Format.
- 4.2 Supplier shall ship final product(s) ordered to Pima County Public Library, Acquisitions, for distribution throughout the PCPL system.
- 4.3 Supplier shall be capable of providing to Pima County Public Library unabridged editions of current bestsellers (fiction and non-fiction) in compact disc, MP3 compact disc format.
- 4.4 Supplier shall provide a packing slip for each box of material.

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4.5 Supplier shall send invoices with the materials and the invoice address is the same as for the delivery address:
Pima County Public Library, Attn: Acquisitions, 101 N. Stone Avenue, Tucson AZ 85701.

4.6 Item #1 Additional Specifications shown below:

Item Specification	
1	Audio versions of Best sellers from specific authors, including, but not limited to Cormac McCarthy, C.J Box, Alexander McCall Smith, Charlaine Harris, Diana Mott Davidson, Lawrence Block, J.R. Ward, Diana Galbadon, Rita Mae Brown, Robyn Carr, Jude Devereaux, Jennifer Chiaverini, Meg Cabot, Debbie Macomber, Bernard Cornwell, Larry McMurtry, Laurie King, Kelley Armstrong and John Connoll
1	Order plans for releases of old classics from Agatha Christie and like authors
1	Inspirational and motivational bestsellers order plans
1	Spanish language releases, both original and translation available as a continuous order plan
1	African-American works available as an order plan

4.7 Cataloging and Processing Specifications — Refer to Exhibit B located after Standard Terms & Conditions.

TYPICAL BUSINESS PROCESS FLOW FOR PRODUCTS/SERVICES:

Task No.	DESCRIPTION	Performed	Est. Duration (Days)
1	Offer a variety of continuous order plans: especially for mystery, best seller, inspirational, motivational audio books. Provide access to online catalog for specific orders by title, author and ISBN	Supplier	Quarterly
2	Select continuous order plans	County	Annual review and update, order as needed
3	Call Numbers provided to Recorded Books cataloging and processing staff	County	As needed
4	Materials cataloged and processed; bibliographic and item records sent by e-mail to Technical Services	Supplier	Quarterly for continuous order plans, as needed for ad hoc orders
5	Bibliographic and item records downloaded from e-mail	Count	Quarterly for continuous

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	into library database		order plans, as needed for ad hoc orders
6	Processed materials shipped to Technical Services at Main Library	Supplier	Quarterly for continuous order plans, as needed for ad hoc orders

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7	Processed materials received and checked for holds in Technical Services at Main Library	County	Quarterly for continuous order plans, as needed for ad hoc orders
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5. OFFER ACCEPTANCE AND ORDER RELEASES:

Offer will be accepted and executed by the County by issue of a Blanket Contract (recurring requirements) and effective on the document's date of issue without further action by either party. The Blanket Contract will document the term of the agreement.

Delivery: Monday through Friday between 8 AM and 5 PM to Pima County Public Library, Attn: Acquisitions, 4th Floor, 101 N Stone Ave.. Tucson, AZ 85701.

Order for Goods and services pursuant to the executed agreement will be made by County by issue of Purchase Order every 30 days for services, on as needed basis for equipment and accessories. The Purchase Order(s) will be furnished to Supplier via facsimile, e-mail, or telephone. If the Purchase Order is given verbally to the Pima County Public Library that issued the Purchase Order will transmit a confirming Purchase Order to the Supplier within five (05) workdays of the date the verbal Purchase Order is given.

6 ACCEPTANCE OF GOODS AND SERVICES:

The County Department designated on the issued Order will accept goods and services only in accordance with this contract. Such acceptance is required prior to commencement of Payment terms.

7. COMPENSATION & PAYMENT:

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

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

All Invoice documents will reference the County's Purchase Order (PO) Delivery Order (DO) or Contract 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 or Contract document. Invoices that include line items or unit prices that do not match those documented by the County's order or contract may be returned 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 receipt of goods into payment system by the receiving Department and Contractor's Invoice is received and verified by County Financial Operations.

OPTIONAL EARLY PAYMENT DISCOUNT TERM: Pima County Administrative Procedure Nor 22-35 section 2.24 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 shall submit valid invoice document consistent with the associated Delivery Order (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 Master Agreement (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 for which unit pricing has not been previously defined.

Unless the parties otherwise agree in writing, all pricing will be F. O.B. Destination & Freight Prepaid Not Billed ("F.O.B Destination"), delivered to and unloaded at the destination(s) defined by the delivery article of this contract or accepted Order for services or products and all freight costs must be included in the offered Unit Price.

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Although State and City sales tax may not be fully or accurately defined on an order, they will be paid when they are DIRECTLY applicable to Pima County and invoiced as a separate line item. Such taxes should not be included 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 desired implementation 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.

Quantities referred to are estimated quantities. COUNTY reserves the right to increase or decrease the quantities and amounts. No guarantee is made regarding actual orders issued for items or quantities during the term of the agreement. COUNTY is not responsible for Contractor inventory or order commitment.

Unit prices offered must include all incidentals and associated costs required to comply with and satisfy all requirements referred to or included in this solicitation, which includes the Instructions to Bidders, Standard Terms and Conditions and Offer Agreement. No payments will be made for items not included in the contract.

Contractor will provide detailed documentation in support of payment requests which will document, be consistent with and not exceed COUNTY's order. 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 goods are delivered, services are performed, or costs are incurred. Invoices must assign each amount billed to an appropriate line item of COUNTY's order and document each Payment Accrual Date. COUNTY may refuse to pay any amount billed in an untimely manner or which is not conforming to COUNTY's order. County will refuse to pay any amount billed more than six (6) months after the Payment Accrual Date, pursuant to § 11-622(C)F

UNIT PRICES

*** Note- Prices listed below are a base line and subject to change based Maricopa County Contract Serial 10052 and/or the agreed upon vendor book selection by both parties

Item No.	Item Description	Average Current Unit Prices	UOM	Est. Annual Usage Qty EAU	Ext. Current Annual Usage \$
1	Audio Books on Compact disc in durable case	\$90.00	One audio book	1,000	\$90,000.00
2	Cataloging and processing of materials — See Exhibit A for Specifications		One audio book	1,000	\$2,500.00
3	EBooks (Recorded Books:OneClick Digital	\$65.00		100	\$6,500.00
4	Ebook, digital audiobook collections, Great Courses and platform and interface on line	\$48,400	Subs. + Platform fee	1	\$48,000.00

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5	Digital audio books	\$90.00		3,000	\$270,000.00
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		Com	act	Pa	e
6	Streaming Video plus platform and interface online	\$16,000.00	Year	1	\$ 16,000.00
7	Kids of Great Courses that include audio, video, and PDF	\$ 200,00	EA	50	\$ 1 0,000.00
	TOTAL INCLUDING SHIPPING, HANDLING AND ALL rwsc, CHARGES AND FEES				\$443,000.00

8. DELIVERY:

As defined by the Standard Terms "On-Time" delivery is an essential part of the consideration to be given to the County under the agreement. Delivery for equipment and accessories will be made in accordance with the instructions and the location(s) referenced below:

Delivery location is: Pima County Public Library, Attn: Acquisitions, 101 N. Stone Avenue, Tucson, Arizona 85701

Supplier guarantees delivery of product or service in less than five (5) calendar days after issue date of order unless a different delivery date is mutually agreed upon by both parties in writing. If required to satisfy the guaranteed delivery interval Supplier will utilize premium freight method at no additional cost to the County.

9. TAXES FEES EXPENSES:

Articles sold to Pima County are exempt from federal excise taxes. The County is subject to State and City sales tax. Pima County will furnish an exemption certificate upon request. No separate charges for delivery, drayage, express, parcel post, packing, insurance, license fees, permits, costs of bonds, surcharges, or bid preparation, will be paid by Pima County, unless expressly included and itemized by the solicitation documents.

10. OTHER DOCUMENTS

Supplier and the County in entering into this agreement have relied upon information provided or referenced by Pima County Solicitation No.214182, including the Instructions reading the submission of Offer, Standard Terms and Conditions, Solicitation Addenda, Suppliers Bid Offer, and the Maricopa County Contract Serial 16070 RFP. 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 CONTRACTOR'S insurance shall be primary insurance and non-contributory with respect to all other available sources. Contractor shall obtain and maintain at its own expense, during the entire term of this Contract the following type(s) and amounts of insurance:

- a) Commercial General Liability in the amount of \$1 000,000.00 combined single limit Bodily Injury and Property Damage. COUNTY is to be named as an additional insured for all operations performed within the scope of the Contract between COUNTY and CONTRACTOR;
- b) Commercial or Business automobile liability coverage for owned, non-owned and hired vehicles used in the performance of this Contract with limits in the amount of \$1 000,000.00 combined single limit or \$1 000,000.00 Bodily Injury, \$1 000,000.00 Property Damage;
- c) If this Contract involves professional services, professional liability insurance in the amount of \$1 000,000.00; and,

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Solicitation #: 214182 Title: Audio Books on Compact Discs Page 7 of 15

d) If required by law, workers' compensation coverage including employees' liability coverage.

Contractor will provide COUNTY with current executed certificates of insurance within two weeks from when the Notice of Award is issued by County. All certificates of insurance will guarantee the provision of thirty (30) days' prior written notice to COUNTY of cancellation, non-renewal or material change.

12. ACKNOWLEDGEMENT of SOLICITATION ADDENDA:

Contractor acknowledges that the following solicitation addenda have been incorporated in its offer and this contract:

Addendum #	Date	Addendum #	Date	Addendum #	Date

13. SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION:

Is your firm SBE certified as defined by the solicitation's "Instruction To Bidders"? Yes [1] No [2] (Select one) If 'Yes', have you included your certification document? Yes [1] No [2] (Select one) NOTE: If the SBE Certification document is not submitted with your bid the SBE Preference cannot be applied

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OFFER AGREEMENT

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13. BID/OFFER CERTIFICATION:

SUPPLIER LEGAL NAME: Recorded Books, Inc

BUSINESS ALSO KNOWN AS: Recorded Books, Inc

MAILING ADDRESS: 270 Skipjack Rd.

CITY/STATE/ZIP: Prince Frederick, MD 20678

REMIT TO ADDRESS: Same as Above

CITY/STATE/ZIP:

CONTACT PERSON NAME/TITLE: Mark Haley, Account Representative

PHONE: 303-478-4105

FAX: 410-535-5499

CONTACT PERSON EMAIL ADDRESS: mhaley@recordedbooks.com

EMAIL ADDRESS TO WHICH ORDERS & CONTRACTS SHALL BE TRANSMITTED:

mhaley@recordedbooks.com

CORPORATE HEADQUARTERS LOCATION:

ADDRESS: 270 Skipjack Rd.

CITY, STATE, ZIP: Prince Frederick, MD 20678

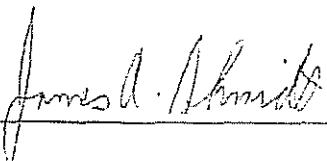
By signing and submitting these Offer Agreement documents, the undersigned certifies that they are legally authorized to represent and bind the "Supplier" to legal agreements, that all information submitted is accurate and complete, that the supplier has reviewed the County Procurement website for solicitation addenda and incorporated to their offer, that the firm is qualified and willing to provide the goods and services requested, and that the firm 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 may not be evaluated. Offeror's submission of a signed offer agreement shall constitute a firm offer and upon the issuance of a blanket contract or purchase order document signed by the Pima County

OFFER AGREEMENT

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Procurement Director or authorized designate a binding contract is formed that shall require the Offeror to provide the goods and services described in this solicitation. The undersigned hereby offers to furnish the goods or service in compliance with all terms, conditions, specifications, defined or referenced by the solicitation, which includes Pima County Standard Terms & Conditions, this Offer Agreement and other documents listed in this Offer Agreement's Other Documents article

SIGNATURE:



DATE:

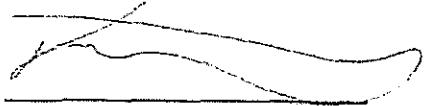
5-11-16

PRINTED NAME & TITLE OF AUTHORIZED SUPPLIER REPRESENTATIVE EXECUTING OFFER

PHONE AND E-MAIL: James A. Schmidt
SVP Sales and Marketing jschmidt@recordedbooks.com 513-375-9309

County Attorney Contract Approval "As to Form":

Approved as to form:



Tobin Rosen, Deputy County Attorney

5/5/16

Date

91462 / 00368496 / v 1

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PIMA COUNTY STANDARD TERMS AND CONDITIONS (03/18/15)

1. OPENING:

Responses will be publicly opened and each respondent's name, and if a Bid the amount, will be read on the date and at the location defined in the Invitation for Bid (IFB) or Request For Proposals (RFP). Proposals shall be opened so as to avoid disclosure of the contents of any proposal to competing offerors during the process of negotiation. All interested parties are invited to attend.

2. EVALUATION:

Responses shall be evaluated to determine which are most advantageous to Pima County (COUNTY) considering evaluation criteria, conformity to the specifications and other factors.

If an award is made, COUNTY will enter into an agreement with the one or multiple respondent(s) that submitted the lowest responsive bid(s) that were determined responsible for supplying the required goods or services. Unless otherwise specified on the Bid/Offer document determination of the low/lowest bids will be made 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 1.32; 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 offered by Contractor.

3. AWARD NOTICE:

A Notice of Recommendation for Award for IFB or RFP will be posted on the Procurement website and available for review by interested parties. A tabulation of responses will be maintained at the Procurement Department.

OFFER AGREEMENT

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4. AWARD:

Awards will be made by either the Procurement Director or the Board of Supervisors in accordance with the Pima County Procurement Code. COUNTY reserves the right to reject any or all offers, bids or proposals or to waive irregularities and informalities if it is deemed in the best interest of COUNTY. Unless expressly agreed otherwise, resulting contracts are not exclusive, 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 an offer, 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 shall govern, unless COUNTY accepts Contractor's terms in writing. No oral agreement or understanding shall in any way modify this contract or the terms and conditions herein. Contractor's acceptance, delivery or performance called for herein shall constitute unqualified acceptance of the terms and conditions of the resultant contract.

7. INTERPRETATION and APPLICABLE LAW:

The contract will be interpreted, construed and given effect in all respects according to the laws of the State of Arizona. If any of Contractors' terms or conditions is not in agreement with County's terms and conditions as set forth herein, COUNTY's shall 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 (MA), Purchase Order (PO) Delivery Order (DO) or Delivery Order Maximo (DOM) revision or amendment as required by COUNTY Procurement Code. 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 to be received by COUNTY.

A guaranteed delivery date, or Interval period from order release date to delivery, must be given if requested by the Price offer document. 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 extended in writing by an authorized representative of COUNTY.

To mitigate or prevent damages caused by delayed delivery, COUNTY may require Contractor to deliver additional quantity utilizing express modes of transport, and or overtime, all costs to be Contractor's responsibility. COUNTY reserves the right to cancel any delinquent order, procure from alternate source, or refuse receipt of or return delayed deliveries, 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 will not be held 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, an acceptable adjustment will be made and the order modified in writing. Any agreement for adjustment must be made in writing.

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

13. INSPECTION:

All goods and services are subject to inspection and testing at place of manufacture, destination or both by COUNTY. Goods failing to meet specifications of the order or contract will be held at Contractor's risk and may be returned 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 waiver of any condition will not be considered a waiver of that condition for subsequent shipments or deliveries.

14. SHIPPING TERMS:

Unless stated otherwise by the contract, delivery terms are to be F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destination") and are to be included in the Unit Price offered by Contractor and accepted by COUNTY.

15. PAYMENT TERMS:

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

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 all specification requirements have been met.

17. RIGHTS AND REMEDIES OF COUNTY FOR DEFAULT:

In the event any item furnished by Contractor in the performance of the contract should fail to conform to the specifications thereof, or to the sample submitted by Contractor, 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 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

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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 offer 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 at any time it shall be found that Contractor has in presenting any offer(s) colluded with any other party or parties for the purpose of preventing any other offer being made, then any contract so awarded shall be terminated and that person or entity shall be liable for all damages sustained by COUNTY.

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 developed by COUNTY. Contractor may be contacted by participating agencies and requested 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 are within the intended scope of the solicitation and resulting contract. Any such usage shall be in accordance with State, COUNTY and other Public Agency procurement rules, regulations and requirements and shall be transacted between the requesting party and Contractor. Contractor shall hold harmless COUNTY, its officers, employees, and agents from and against all liability including without limitation payment and performance associated with such use. A list of agencies that are authorized to use COUNTY contracts can be viewed at the Procurement Department Internet home page: <http://www.ojma.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. Contractor may be required 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 be in accordance with Arizona trade and commerce laws (Title 44 AR 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, regulations, standards and Executive Orders, without limitation. In the event any services provided under this contract require a license issued by the Arizona Registrar of Contractors (ROC), Contractor certifies that those services will be provided by a contractor licensed by ROC to perform

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those services in Arizona. 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 brought in a court of the State of Arizona in Pima County.

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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. S 3&51 If 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 AR 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 INFORMATION:

Pursuant to A.R.S. § 39-121 et seq., and A.R.F.S. S 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 341 Chapter all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release or review by the general public including competitors,

Any records submitted in response to this solicitation that Contractor reasonably believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by Contractor prior to the close of the solicitation.

Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to ARS. S 39-121 et seq., COUNTY will release records marked CONFIDENTIAL ten (10) business days after the date of notice to Contractor of the request for release, unless Contractor has, within the ten (10) day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release is not counted in the time calculation. Contractor will be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

COUNTY will not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor is COUNTY in any way financially responsible for any costs associated with securing such an order.

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 specifically stated otherwise in the contract. Such tools and documentation are the property of COUNTY and will be marked, as is

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practical, as the 'Property of Pima County" and if requested by COUNTY a copy of the tooling and documentation will be delivered 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 had given Contractor reasonable time to respond to COUNTY's requests for support,

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30. AMERICANS WITH DISABILITIES ACT:

Contractor will comply with all applicable provisions of the Americans with Disabilities Act (public law 101-3361 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 filed in accordance with the Pima County Procurement Code, Section 1120.010.

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 and 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 and must be promptly delivered 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 Master Agreement or Purchase Order awarded pursuant to this solicitation may be executed 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 offer of Contractor and the signed

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acceptance of COUNTY are each considered an original and together constitute a binding Master Agreement, if all other requirements for execution have been met.

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.

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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 directly employed by it. 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 found 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 otherwise specified and agreed to in writing by COUNTY, 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.

END OF PIMA COUNTY STANDARD TERMS AND CONDITIONS

EXHIBIT A: Item #2 Specifications for Cataloging and Processing

Cataloging and processing of materials

Cataloging:

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- a. Cali numbers will be provided to Recorded Books catalogers.
- b. Recorded Books MARC records will be provided to the library.
- c. Recorded Books catalogers will add the call numbers to the MARC records.

Format will be: Fiction \$a Author \$a CD \$f (CHILD or TEEN, if appropriate)

Mystery \$a Author \$a CD \$f (CHILD or TEEN, if appropriate)

SciFic \$a Author \$a CD \$f (CHILD or TEEN, if appropriate)

Western \$a Author \$a CD \$f (CHILD or TEEN, if appropriate)

333.33 \$b F921c 2009 CD \$f (CHILD or TEEN, if appropriate)

- d. Spine labels will be created based on these call numbers. Spine labels will have the following configuration:

Fiction
Author
CD
(CHILD or TEEN, if appropriate)

333

33

F921c

2009

CD

(CHILD or TEEN, if appropriate)

- e. Item records will be created using 949 command tags and 949 \item record tags.

949 command tag example:

949 \\$a*recs=bla;b1=d;b2=e;b3=a;ov= ;

949 item tag example:

949 \1\$31 152081450464\$labb\$t31\$qO\$sc\$p51.75\$h11

Processing

- a. Barcode

Centered, front of case, on top of the sleeve, slightly below the top of the sleeve. Not covered with label protector.

Barcodes can be provided by the library, if vendor does not digitize barcodes.

- b. Spine label:

On the spine, about 1/2 inch from the bottom, wrapped to the front, if necessary. Covered with label protector.

- c. Library address label:

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Inside the front cover of the case, lower right, near the spine, Not covered with a protectort

Address labels can be provided by the library,

- d. Number of discs/books/booklets label:

On front cover, upper left, not too large. Alerts staff to [00k for number of discs or books, and/or booklets in the case,

- e. Hub labels

Contains the last 9 digits of the barcode and the name, Pima County Public Library. Faced around the hub of the disc.

END OF EXHIBIT B