



**BOARD OF SUPERVISORS AGENDA ITEM REPORT**  
**CONTRACTS / AWARDS / GRANTS**

**Requested Board Meeting Date:** 02/02/16

**or Procurement Director Award** ☐

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**Contractor/Vendor Name (DBA):** Diamondback Police Supply Co., Inc. dba Diamondback Police Supply

**Project Title/Description:**

Body Armor

**Purpose:**

Award of Contract: Master Agreement No. MA-PO-16-198. The initial term is for a one-year period in the annual not-to-exceed amount of \$280,000.00 with four annual renewal options.

Contractor Headquarters: Tucson, AZ

Administering Department: Sheriff

**Procurement Method:**

Pursuant to Pima County Procurement Code 11.12.010 Competitive Sealed Bidding Solicitation No. 198449 was conducted to satisfy RQM 16-114. One certified SBE submitted a bid.

Attached Documents: Notice of Recommendation for Award, Master Agreement.

**Program Goals/Predicted Outcomes:**

Sheriff department officers will have reliable protective clothing designed to deflect slashing, bludgeoning and ballistic attacks that are encountered during the performance of their duties.

**Public Benefit:**

Safety of the officers.

**Metrics Available to Measure Performance:**

Protective gear is fitted and delivered in a timely manner.

**Retroactive:**

No.

**Original Information**

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 16-198  
Effective Date: 02/03/16 Termination Date: 02/02/17 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☒ Expense Amount: \$ \$280,000.00 ☐ Revenue Amount: \$ \_\_\_\_\_  
Funding Source(s): General Fund

Cost to Pima County General Fund: \$280,000.00

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: Jennifer Moore, Commodity Contracts Officer 1/11/16 Division Manager 1/11/16  
Department: Procurement 1/8/16 Telephone: 520.724.8164  
Department Director Signature/Date: [Signature] 1/8/16  
Deputy County Administrator Signature/Date: [Signature] 1-8-16  
County Administrator Signature/Date: [Signature] 1/9/16  
(Required for Board Agenda/Addendum Items)

**NOTICE OF RECOMMENDATION FOR AWARD**

Date of Issue: 01/08/16

The Procurement Department hereby issues formal notice to respondents to Solicitation #198449 for Body Armor that the following listed respondent will be recommended for award as indicated below. The award action is scheduled to be performed by the Board of Supervisors on or after 02/02/16.

Award is recommended to the Low Bid.

<u>AWARDEE NAME(S)</u>	<u>BID AMOUNT</u>	<u>AWARD AMOUNT</u>
Diamondback Police Supply Co., Inc.	\$279,095.70	\$280,000.00

<u>OTHER RESPONDENT NAMES</u>	<u>BID AMOUNT</u>
FX Tactical, LLC	\$318,852.00

Issued by: Jennifer Moore, Commodity Contracts Officer

Telephone Number: 520.724.8164

This notice is in compliance with Pima County Procurement Code §11.20.010(C).

Electronic Copy to: Hyewon.shin@pima.gov – Pima County SBE Division



# MASTER AGREEMENT

## PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 16000000000000000198

MA Version: 1

Page: 1

Description: Body Armor

### I S S U E R

Pima County Procurement Department  
130 W. Congress St. 3rd Fl  
Tucson AZ 85701

Issued By: JENNIFER MOORE  
Phone: 5207248164  
Email: jennifer.moore@pima.gov

### T E R M S

Initiation Date: 02-03-2016

Expiration Date: 02-02-2017

NTE Amount: \$280,000.00

Used Amount: \$0.00

### V E N D O R

DIAMONDBACK POLICE SUPPLY CO

7030 E Broadway Blvd

Tucson AZ 85710

Contact: Doug Mackinlay

Phone: 520-886-8338

Email: dmac@dbackpolice.com

Terms: 0.0000 %

Days: 30

Shipping Method: Vendor Method  
Delivery Type: STANDARD GROUND  
FOB: FOB Dest, Freight Prepaid

#### Modification Reason

This Master Agreement is issued pursuant to an award made by the Board of Supervisors. This MA is effective for a one-year period with four annual renewal options. The annual award amount is \$280,000.00. Attachments: BOS AIR, NORFA, Master Agreement MA-PO-16\*198, 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.



# MASTER AGREEMENT DETAILS

Master Agreement No: 16000000000000000198

MA Version: 1

Page: 2

Line	Description					
1	Point Blank Alpha Elite AXII Level 2 Ballistic Vest with 2 v					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$648.65			
2	Point Blank R20-D External Carrier with Standard Pocket Conf					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$106			
3	Paraclete FTOC Tactical Vest UT1AXDBS0D with Alpha Elite AXI					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1690.55			
4	Paraclete 20260-01 Level III+ Hard Armor Plate, 10"x12"					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$452.35			
5	Point Blank S-PL2 Spike 2 Level 2 Spike Vest with one standa					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$357.85			
6	For Items Not Specifically Listed					
	Service Contract Amt			Service From	Service To	
	\$0.00			--	--	

**1. INTENT:**

This document is intended to establish an "As Required" indefinite delivery/indefinite quantity (IDIQ) "Master" agreement contract to provide Pima County ("County") with such quantities of **Body Armor including Tactical Assault Carries And Related Services** as County may order from time to time by issue of Delivery Order (DO) pursuant to a resulting contract. As defined by the attached Pima County Standard terms and Conditions (STC) this contract is non-exclusive and may be terminated for any reason without penalty or cost to County.

All Goods and Services offered or provided pursuant to the contract will conform to the requirements defined by or referred to by the solicitation documents including *Solicitation Addenda*, *Instructions to Bidders*, *Standard Terms and Conditions* and this *Offer 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 all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Contract may be modified, amended, altered or extended only by a written amendment signed by the parties.

**2. CONTRACT TERM EXTENSIONS-RENEWALS & REVISIONS:**

The initial term of the agreement 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 continuation of 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:**

CERTIFY MINIMUM QUALIFICATIONS BY CHECKING THE CORRECT RESPONSE BOX (YES OR NO) AND PROVIDING APPLICABLE INFORMATION OR DOCUMENTATION. A 'NO' answer will be the cause of your offer to be rejected as *Non-Responsive*.

MQ Line#	MINIMUM QUALIFICATIONS	CHECK <input checked="" type="checkbox"/> appropriate response certifying agreement with the qualification requirement.
1	<b>Responsible:</b> The CONTRACTOR certifies that they are competent, willing and responsible for performing the services or providing the products in accordance with all requirements of the solicitation and this Offer Agreement. The CONTRACTOR further stipulates that they possess all licenses required by applicable Agencies to satisfy the requirements of this agreement.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2	<b>Original Equipment Manufacturer (OEM) Authorized:</b>  Must be an authorized distributor of Point Blank Body Armor products required herein.  Must have available or access to authorized Point Blank Enterprise representative for warranty services.  Must have Seamstress qualified to perform Point Blank Enterprise authorized factory alterations.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## OFFER AGREEMENT

Solicitation 198449

Title: Body Armor

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### 4. PRODUCT OR SERVICE SPECIFICATIONS & SCOPE:

Refer to:

Exhibit A: Scope of Services (3 pages)

Exhibit B: Point Blank Product Warranty Specification (2 pages)

### 5. OFFER ACCEPTANCE AND ORDER RELEASES:

Offer(s) will be accepted and executed by the County by issue of a Master Agreement (MA) (Recurring requirements) and effective on the document's date of issue without further action by either party. Master Agreement (MA) and this Offer Agreement documents will document the term of the agreement.

County will order products or services pursuant to an executed Master Agreement by issue of Delivery Order (DO) documents. Order documents will be furnished to Contractor via facsimile, e-mail or telephone. **If the order is given verbally, the County Department that issued the order will transmit a confirming order document to Contractor within five workdays of the date the verbal order is given.**

**Contractor must not supply materials or services pursuant to the contract that are not documented or authorized by a Delivery Order (DO) at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a COUNTY Delivery Order (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 properly executed and issued by County. Any items provided in excess of that 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 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 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 shall submit valid invoice document consistent with the associated Purchase Order (PO), 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: 0 % if payment tendered within 30 Days as above

## OFFER AGREEMENT

Solicitation 198449

Title: Body Armor

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The Master Agreement (MA) or Purchase Order (PO) 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.

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 A.R.S. § 11-622(C).

### **UNIT PRICES (Net 30 day Payment Terms) Refer to Exhibit C – Price Page**

#### **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 (DO) or Contract.

Pima County Sheriff Department  
Material Management Section  
1505 E. Apache Park Place  
Tucson, Az 84714

**Delivery hours: Monday – Friday 8 a.m. – 3 p.m. excluding holidays**

**Six (6) weeks** after issue date of order. If required to satisfy the guaranteed delivery interval Contractor will utilize premium freight method at no additional cost to County.



**OFFER AGREEMENT****Solicitation 198449****Title: Body Armor****Page 4 of 17****9. TAXES, FEES, EXPENSES:**

Articles sold to COUNTY are exempt from federal excise taxes. 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 expressly included in the contract and itemized by the solicitation documents.

**10. OTHER DOCUMENTS:**

Contractor and COUNTY in entering into this contract have relied upon information provided or referenced by Pima County Solicitation No. 198449 including the Invitation For Bids, Instructions to Bidders, Standard Terms and Conditions, Solicitation Addenda, Contractor's Bid Offer, documents submitted by Contractor or References to satisfy Minimum Qualifications and on 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:**

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. Pima County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, employees or subcontractors and Contractor is free to purchase additional insurance.

CONTRACTOR shall obtain and maintain at its own expense, during the entire term of this Agreement 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. Pima County is to be named as an additional insured for all operations performed within the scope of the Contract between Pima County and CONTRACTOR
- b) If required by law, workers' compensation coverage including employees' liability coverage.

CONTRACTOR shall provide COUNTY with current certificates of insurance. All certificates of insurance must provide for guaranteed thirty (30) days written notice to the COUNTY of cancellation, non-renewal of material change.

**12. PERFORMANCE BOND: N/A****13. 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
01	11/24/15				

**14. SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION:**

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

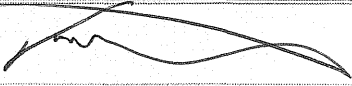
**The remainder of this page is intentionally left blank.**

15. BID/OFFER CERTIFICATION:

CONTRACTOR LEGAL NAME:		DIAMONDBACK POLICE SUPPLY CO., INC.			
BUSINESS ALSO KNOWN AS:		DIAMONDBACK POLICE SUPPLY			
MAILING ADDRESS:		7030 E. BROADWAY BLVD.			
CITY:	TUCSON	STATE:	AZ	ZIP CODE:	85710
INVOICES:					
REMIT TO ADDRESS:		7030 E. BROADWAY BLVD.			
CITY:	TUCSON	STATE:	AZ	ZIP CODE:	85710
CONTACT PERSON NAME: (first, last)		DOUGLAS MacKINLAY		TITLE:	PRESIDENT
PHONE:	520-886-8338	FAX:	520-886-8314		
CONTACT PERSON EMAIL ADDRESS:		dmac@dbackpolice.com			
DELIVERY ORDERS & CONTRACTS SHALL BE TRANSMITTED:					
CONTACT PERSON NAME (first, last)		VALERIE EVANS		TITLE:	LAW ENFORCEMENT SALES
PHONE:	520-886-8338	FAX:	520-886-8314		
CONTACT PERSON EMAIL ADDRESS:		lesales@dbackpolice.com			
CORPORATE HEADQUARTERS LOCATION:					
STREET ADDRESS:		7030 E. BROADWAY BLVD.			
CITY:	TUCSON	STATE:	AZ	ZIP CODE:	85710

By signing and submitting these Offer Agreement documents, the undersigned certifies that they are legally authorized to represent and bind the "CONTRACTOR" to legal agreements, that all information submitted is accurate and complete, that the firm has reviewed the Procurement website for solicitation addenda and incorporated to their offer, that the firm is qualified and willing to provide the items 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. Offerer's submission of a signed offer agreement shall constitute a firm offer and upon the issuance of a Master Agreement (MA) or Purchase Order (PO) document signed by the Pima County Procurement Director or authorized designate a binding contract is formed that shall require the Offeror to provide the services and materials described in this solicitation. The undersigned hereby offers to furnish the material 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.

AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER			
SIGNATURE:		DATE: 12/15/15 (1/7/16)	
PRINTED NAME: DOUGLAS MacKINLAY		TITLE: PRESIDENT	
PHONE: 520-886-8338	EMAIL ADDRESS: dmac@dbackpolice.com		

		Pima County Attorney Contract Approval "As to Form": Approved as to Form	
Tobin Rosen, Deputy County Attorney		Date: 1/11/16	



ORIGINAL

**EXHIBIT A: SCOPE OF SERVICES**

Contractor shall:

1. Have a store front in metropolitan Tucson area.
2. Be able to fit on location during normal business hours 9:00 am – 5:00 pm Monday – Friday and 9:00 am – 5:00 pm Saturdays.
3. Must have private, secure area for Officers to be fitted.

STORE FRONT INFORMATION:	
Name of Store	DIAMONDBACK POLICE SUPPLY / DIAMONDBACK SHOOTING SPORTS
Address	7030 E. BROADWAY BLVD., TUCSON, AZ 85710
Primary Contact for Fittings, Alterations	JON TALAKTE and VALERIE EVANS
Secondary Contact for Customer Service: Status of Order, invoicing issues	DOUGLAS MacKINLAY
Website:	<a href="http://www.dbackpolice.com">www.dbackpolice.com</a>
Fitting, Alteration Hours	M-F 9am to 5pm, Sat 9am to 5pm Also available during normal store hours by appointment...M-F 9am-7pm, Sat/Sun 9am-5pm

**A. BODY ARMOR PRODUCTS AND SERVICES:****GENERAL SPECIFICATIONS**

1. Body armor shall be new, clean and free of any defects
2. No-substitute **Point Blank Alpha Elite products.**
3. All vests must be serialized, 100% inspected, and traceable. All procedures and quality data must be available to the Pima County Sheriff's Department for inspection upon request.
4. All vests shall be labeled in accordance with requirements of NIJ standard 0101.06, clearly identifying the manufacturer, threat level, model, size, lot, and serial numbers, date of manufacturer, care instructions, certifications of compliance, and required warnings on vest limitations.

**WARRANTY**

5. Contractor must provide Original Equipment Manufacturer (OEM) warranty on all shipments of each certified model. Model will be identical to that which was originally certified by the manufacturer.
6. Contractor must provide OEM Manufacturer warranty that is equal to the certification requirements of the National Institute of Justice (NIJ). Certified model will continue to perform at its established V-50 Ballistic Limit Levels throughout the five year service life of the vest.

**FITTING AND ALTERATION SERVICES**

7. All vests must be custom fit. All measurements must be performed by an OEM/factory trained representative and accordance with Point Blank Enterprises authorized factory alteration.
8. Custom measured vests must be guaranteed to fit satisfactorily on delivery. Contractor must provide alterations or replacement free of charge if the vest does not fit properly.
9. The Contractor shall be responsible for the measurements of all officers no matter the amount to be measured, as well as returns, alterations, and exchanges. All returns, alterations, and exchanges will be picked up and delivered to the Pima County Sheriff's Department Material Management Unit for correction.

**B. PRODUCT SPECIFICATIONS****Item #1: Point Blank Alpha Elite AXII Level 2 Ballistic Vest, two Vision Concealable Carriers and one 5"x8" soft trauma insert:**

1. Vests must be constructed of "Unidirectional Polyethylene based ballistic material.
2. Carrier has Self Suspending Ballistic System
3. Carrier has smart fabric technology
4. Optional ThorShield electroshock protection
5. Aegis antimicrobial protective properties
6. Durable Water Repellent microfiber outer shell
7. Removable 4" internal cummerbund
8. Top loading plate pockets in front and back
9. Optional mesh shirt tail or no tail
10. 5'8 soft trauma insert
11. Male and female vest options
12. Carrier must accommodate trauma plates ranging in size from 5"x7" to 8"x10".
13. Carrier must be guaranteed against defects in workmanship for 12 months from date of purchase
14. Carriers must have Self Suspending Ballistic Systems to keep ballistic panels in place and maximize the coverage area.
15. V50 velocities must not fall below the Threat 1 Low Caliber & Threat 2 High Caliber testing.
16. Vests must be concealable under a uniform shirt and must not bind or constrict user mobility
17. Black in color
18. Comes with two carriers and soft trauma insert

**Item #2: Point Blank R20-D External Carrier, Standard Pocket Configuration, Open Shoulder Design**

1. High visibility identification with removable Velcro fasteners for placement of "Sheriff" placard on back or front
2. Multi-functional pockets
3. Adjustable shoulder strapping system
4. Side closure system
5. Ballistic protection accommodating NIJ Certified ballistic panels
6. Internal pocket for trauma plate
7. Black in color

**Item #3: Paraclete FTOC Tactical Vest, Alpha Elite AXIIIA Level IIIA Ballistic Panels, Bicep**

1. 500 Denier outer shell construction
2. Integrated torso padding system
3. Padded shoulder strapping system
4. External cummerbund
5. Internal bottom loading hard armor plate pocket in front and rear
6. Reinforced "man down" strap
7. Molle compatible webbing attachment system
8. To include five pouches
9. Removable identification placard "Sheriff" in front or back
10. OD green in color

**Item #4: Paraclete 20260-01 Level III+ Hard Armor Plate**

1. 10: x 12" Shooters Cut
2. Constructed of Polyethylene and ceramic
3. 1.25" thick
4. 4.47lbs

**Item #5: Point Blank S-PL2 Spike 2 Spike Vest, one standard concealable carrier and one 5"x8" soft trauma insert**

1. Polyester cotton blend outer shell with soil resistant fabric
2. Removable 2" waist straps
3. Self-Suspending Ballistic System
4. Trauma insert pockets in the front and back accommodating 5"x8" or 8"x10" plates
5. Removable 4" internal cummerbund
6. Optional with or without tail
7. Black in color
8. Male and Female vest options

**OFFER AGREEMENT****Solicitation 198449****Title: Body Armor****Page 8 of 17****C. REPLACEMENT SCHEDULE:**

Contractor must be able to accommodate the receipt, inventory, fittings for the number of body armor indicated in the below table by year. Ordering by the Sheriff Department is anticipated to occur on a every six (6) weeks and consistent with five-year replacement date as applicable; however, the County cannot guarantee the number to be ordered each quarter. The number indicated below are based on current inventory and are subject to change during the term of the agreement.

<b>REPLACEMENT SCHEDULE:</b>						
<b>#</b>	<b>Item Description</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
<b>1</b>	Point Blank Alpha Elite AXII Level 2 Ballistic Vest with 2 vision Concealable carriers (no Thorshield) and 1 5"x8" soft trauma insert, color black (no substitute)	<b>150</b>	<b>140</b>	<b>400</b>	<b>75</b>	<b>45</b>
<b>2</b>	Point Blank R20-D External Carrier with Standard Pocket Configuration, open shoulder design, color black, ID placards "Sheriff" (no substitute)	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>3</b>	Paraclete FTOC Tactical Vest UT1AXDBS0D with Alpha Elite AXIIIA Level IIIA Ballistic Panels, bicep. Protection, Trap Armor (set), and 5 pouches (to be determined), color OD Green, ID placards "Sheriff" (no substitute)	<b>48</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>4</b>	Paraclete 20260-01 Level III+ Hard Armor Plate, 10"x12" Shooters Cut (no substitute)	<b>48</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>5</b>	Point Blank S-PL2 Spike 2 Level 2 Spike Vest with one standard concealable carrier and one 5"x8" soft trauma insert, color black (no substitute)	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>ESTIMATED ANNUAL TOTAL</b>		<b>446</b>	<b>370</b>	<b>600</b>	<b>275</b>	<b>245</b>

<b>Task No.</b>	<b>DESCRIPTION</b>	<b>PERFORMED BY</b>	<b>EST. DURATION (DAYS)</b>
<b>1</b>	Pima County Sheriff Department coordinates with vendor information required for measurements, dates and times to complete tasks, number of personnel to be fitted, names of officers, place, etc.	County	1 day
<b>2</b>	Vendor takes measurements of each Officer and provides list of personnel measured to Sheriff's Department	Vendor	3 days
<b>3</b>	Delivery Order is submitted to vendor in accordance with section 7 Compensation and Payment.	County	2 days after measurements
<b>4</b>	Vendor provides documentation to confirm the order has been placed with manufacturer and delivery date	Vendor	2 days after DO
<b>5</b>	Order is shipped to Sheriff's Department, includes warranty card	Vendor	45-60 days
<b>6</b>	Department receives vests, verifies by name and serial number	County	3 days
<b>7</b>	Vendor is notified of any returns, alterations, or exchanges	County	30 days
<b>8</b>	Invoice submitted to County	Vendor	14 days after delivery
<b>9</b>	Invoice paid	County	30 days after invoice
<b>10</b>	Warranty services, Used Vest Inspections	Contractor	Ongoing

End of Exhibit A

**Exhibit B: Point Blank Product Warranty Specification (2 pages)****Warranty**

1. **Warranty – Outer Shell Carrier** - The outer shell carrier and other non-ballistic components are warranted to be free from material and manufacturing defects for 24 months from the date of issue to the individual user, as verified by the warranty card. During the warranty period, any garment having a manufacturing or material defect, as determined through inspection by an authorized Point Blank Enterprises representative, will be repaired or replaced at no cost to the customer. The outer shell carrier warranty shall be void if the product has been altered, abused, misused, stored improperly, or not cleaned in accordance with cleaning instructions.
2. **Warranty - Soft Ballistic Component** - The bullet/stab-resistant elements are warranted to perform to their NIJ certified standard for a period of five years from the date of issue to the individual user, as verified by the warranty card. The bullet/stab-resistant elements of this system have been tested and certified by the National Institute of Justice and passed the compliance requirements of the NIJ Standard for Ballistic Resistance of Personal Body Armor. The ballistic elements are warranted to be of the same construction and design as the original NIJ certified model listed on the label. During the warranty period, any soft ballistic component having a manufacturing or material defect, as determined through inspection by an authorized Point Blank Enterprises representative, will be repaired or replaced at no cost to the customer.
3. **Warranty - Soft Ballistic Component (continued)** Should the soft body armor ballistic panel cover be compromised (cut, torn or frayed); it should not be worn and immediately returned to the manufacturer for inspection and repair. If the damage is the result of normal wear and tear, the damage will be repaired free of charge. If however, the damage is the result of improper care, storage or abuse, determined solely by Point Blank Enterprises, then Point Blank Enterprises will advise the owner of recommended repair or replacement costs. The ballistic/stab-resistant elements of this system will reduce the possibility of serious physical injury to the wearer in the areas covered by the ballistic or stab elements. There should be no expectation of bullet or stab resistance in areas not covered by the ballistic or stab element. The ballistic or stab element is not warranted to be bulletproof or stab proof.

The warranty does not cover and is void for:

- Any garment altered or modified in any way other than Point Blank Enterprises authorized factory alterations
- Any ballistic or stab element that has been altered or modified in any way other than Point Blank Enterprises authorized factory alterations
- Any ballistic or stab element not in a Point Blank Enterprises outer shell carrier from any of the core brands (Point Blank Body Armor, Protective Apparel Corporation of America (PACA), Protective Products or PARACLETE®) except as approved by Point Blank Enterprises
- Damage as a result of abuse or misuse
- Damage as a result of improper storage or maintenance
- Penetrations as a result of ballistic or stab testing
- The results of any specific ballistic or stab testing
- Injury as a result of bullets or other projectiles or instruments not impacting the ballistic or stab element
- The warranted items herein are expressly in lieu of other warranties, express or implied, including the implied warranties of merchantability, fitness for particular purpose and other warranties arising from a course of dealing, usage or trade
- There are no warranties, express or implied, including the implied warranty of merchantability, which extend beyond the description on the face hereof. There are no warranties, express or implied, that extend beyond the warranty period set forth herein.

**4. Product Liability Insurance**

Vest manufacturer shall agree to provide a minimum of \$26,000,000 product liability insurance coverage on delivered vests.

**5. Post Certification Retest Policy/Used Vest Evaluation Recommendations**

Point Blank Enterprises, Inc. (PBE), which includes Point Blank Body Armor, Protective Apparel Corporation of America (PACA), Protective Products Enterprises (PPE), and Paraclete, encourage valid body armor testing for the purpose of acceptance testing of new vests, and as a tool to be used to evaluate used body armor replacement cycles. In order to provide our customers with guidance in this area, we offer the following recommendations that may help in providing the tools to make informed decisions in buying new armor as well as replacing used armor.

PBE recognize and recommends properly performed ballistic testing in accordance with NIJ-0101.06 CTP Conformity Assessment Section 7.5 (NIJ BA CTP Application Package: 005) for new armors. All testing will be performed at an NIJ approved ballistic test laboratory. Only bullets listed in NIJ Standard 0101.06 table 10 will be utilized. Each ballistic test shall be conducted on a complete vest and in accordance with NIJ-0101.06 CTP Conformity Assessment Section 7.5 (NIJ BA CTP Application Package: 005). Panels shall be shot against clay backing material, which has been conditioned in accordance with NIJ-0101.06. Prior to each shot, the panel will be placed flat against the clay backing material. For acceptance testing, vest samples shall be new and in unused condition.

**6. Used Vest Evaluation**

Used body armor evaluations are necessary and will help the consumer or organizational administrator in determining when to replace armor that is past its practical service life.

**7. Used Vest Inspection and Rating**

Due to the potential wear condition variability of used vest samples each vest sample must be inspected on a regular basis for wear condition and any indications of abuse or improper care. After inspection the samples should be Wear Rated according to their condition and if ballistic testing is anticipated, grouped accordingly. The recommended Wear Ratings categories are listed below:

- **Wear Rating #1 - Good condition** - Light wear, no set wrinkles or stains, ballistic cover intact
- **Wear Rating # 2 - Fair condition** - Moderate wear, some set wrinkles at edges, light staining, and ballistic cover intact
- **Wear Rating # 3 - Poor condition** - Replacement should be considered if any of the following are present: Heavy wear, set wrinkles, staining of the ballistic cover, breaks in the ballistic cover or open seams
- **Wear Rating # 4 - Very poor condition** - Should be taken out of service and replaced if any of the following are present: Creases, folds, set wrinkles, staining or signs of mildew or chemical contact, breaks in the ballistic cover, open seams, ballistic cover very worn or worn through

End of Exhibit B

## Exhibit C – Price Page

Item No.	ITEM DESCRIPTION	ESTIMATED ANNUAL USAGE QUANTITY	UOM	UNIT PRICE \$	EXTENDED AMOUNT \$
1	Point Blank Alpha Elite AXII Level 2 Ballistic Vest with 2 vision Concealable carriers (no Thorshield) and 1 5"x8" soft trauma insert, color black (no substitute)	160	EA	\$648.65	\$103,784.00
2	Point Blank R20-D External Carrier with Standard Pocket Configuration, open shoulder design, color black, ID placards "Sheriff" (no substitute)	110	EA	\$106.00	\$11,660.00
3	Paraclete FTOC Tactical Vest UT1AXDBS0D with Alpha Elite AXIIIA Level IIIA Ballistic Panels, bicep. Protection, Trap Armor (set), and 5 pouches (to be determined), color OD Green, ID placards "Sheriff" (no substitute)	58	EA	\$1,690.55	\$98,051.90
4	Paraclete 20260-01 Level III+ Hard Armor Plate, 10"x12" Shooters Cut (no substitute)	58	EA	\$452.35	\$26,236.30
5	Point Blank S-PL2 Spike 2 Level 2 Spike Vest with one standard concealable carrier and one 5"x8" soft trauma insert, color black (no substitute)	110	EA	\$357.85	\$39,363.50
Although taxes will be paid <u>IF</u> applicable do <u>NOT</u> include sales tax in unit price.			TOTAL BID \$		\$279,095.70
FOB Destination/Unloaded; Cost of freight should be included in unit price.					

SALES TAX TYPE	ITEM #'S AFFECTED	TAXING JURISDICTION	SALES TAX %	SALES TAX \$ (IF ANY)
Equipment/Parts	1 thru 5	State of Arizona/City of Tucson	8.1	\$22606.75

**MASTER PRICE LIST:** For those items not specifically listed and priced above that may be provided within the defined scope of this contract, Contractor will submit Master Price List (MPL) documents, diskette or compact disc and file names or identify website address, identifying all other items offered pursuant to this contract to include Description and Discounted Unit Price, or Unit Price and Discount % (Unit Price x Discount % = Discounted Unit Price). The resulting Unit Prices shall be of similar discount off List Prices as given for those items specifically defined above. Item Unit Prices above will govern in case of conflict with the Master Price List.

List MPL Document by Title, MPL Media & Filenames or MPL Internet Address and Title(s)	Qty of Pages	Dated	Percentage Discount (Unit Price x Discount % = Discounted Unit Price)
Point Blank Body Armor Law Enforcement Retail Price List	9	2015	53% off Retail
Paraclete Body Armor Law Enforcement Retail Price List / Paraclete Tactical Pouches Retail Price List	22/5	2015/2013	51% off Retail



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**SUSTAINABILITY:** In accordance with BOS Resolution 2007-84, Pima County values and encourages sustainable practices. Please **CHECK** ☒ which of the following your business incorporates:

☒ Waste prevention/reduction or material recycling/reuse?

☒ Alternative energy/fuels (such as solar/wind energy, bio-diesel, alternative fuels, hybrid vehicles) in your program's preparation, transportation, and demonstration?

☒ Environmentally preferable materials (such as recycled materials; locally produced/manufactured products)?

☒ Sustainable practices that lessen impact on non-renewable resources and global climate change (such as reduction in water/energy/paper use; minimization of hazardous materials; use of compressed/flexible work schedules)?

☒ Other practices which coincide with the County's definition of sustainable practices (such as alternative modes of transportation; transportation minimization; life-cycle costs; product/packaging "take back" practices; preference to firms located within Pima County)?

End of Exhibit C

PIMA COUNTY STANDARD TERMS AND CONDITIONS (02/17/15)**1. OPENING:**

Responses will be publicly opened and 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, the 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.

The 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 offered by vendor.

**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.

**4. AWARD:**

Awards shall 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 the COUNTY. Unless expressly agreed otherwise, resulting agreements 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 respondent, by submission of an offer, bid or proposal proclaims and agrees and does waive any and all claims for damages against COUNTY or its officers or employees when any of the rights reserved by COUNTY may be exercised.

**6. ACKNOWLEDGEMENT AND ACCEPTANCE:**

If Contractor's terms of sale are inconsistent with the terms of the resultant agreement, the terms herein shall govern, unless Contractor's terms are accepted in writing by COUNTY. No oral agreement or understanding shall in any way modify this order 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 agreement.

**7. INTERPRETATION and APPLICABLE LAW:**

The contract shall 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 Agreement incorporates the complete agreement of the parties with respect to the subject matter of this Agreement. No oral agreement or other understanding shall in any way modify these terms and conditions.

**8. WARRANTY:**

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

**9. QUANTITY:**

The quantity of goods ordered shall not be exceeded or reduced without written permission in the form of a properly executed Master Agreement (MA), Purchase Order (PO) Delivery Order (DO) revision or amendment as required by COUNTY Procurement Code. All quantities are estimates and no guarantee regarding actual usage is provided.

**10. PACKING:**

No extra charges shall be made for packaging or packing material. Contractor shall be 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 the 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 the 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 responsibility. COUNTY reserves the right to cancel any delinquent order, procure from alternate source, and/or refuse receipt of or return delayed deliveries, at no cost to COUNTY. COUNTY reserves the right to cancel any order and/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 provide immediate notice of delay.

**12. SPECIFICATION CHANGES:**

COUNTY shall have 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 shall be made and the order shall be modified in writing. Any agreement for adjustment must be made in writing. Nothing in this clause shall reduce Contractor's responsibility to proceed without delay in the delivery or performance of an order.

**13. INSPECTION:**

All goods and services are subject to inspection and testing at place of manufacture, the destination, or both, by COUNTY. Goods failing to meet specifications of the order or contract shall 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 shall not be considered a waiver of that condition for subsequent shipments or deliveries.

**14. SHIPPING TERMS:**

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

**15. PAYMENT TERMS:**

Payment terms are net 30, unless otherwise specified by the agreement documents.

**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 PIMA COUNTY FOR DEFAULT:**

In the event any item furnished by the Contractor in the performance of the agreement should fail to conform to the specifications thereof, or to the sample submitted by the Contractor, COUNTY may reject same, and it shall thereupon become the duty of the 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 the Contractor fail, neglect, or refuse immediately to do so, COUNTY, shall have 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 the Contractor the difference between the price named in the Master Agreement or Purchase Order and actual cost to COUNTY.

In the event the Contractor shall fail 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 shall 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 the Contractor, any loss or damage sustained by COUNTY in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of COUNTY provided above shall not be 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, proclaims and agrees that no officer or employee of COUNTY or of any subdivision thereof has: 1) aided or assisted the 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) 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) any direct or indirect financial interest in the offer or resulting agreement. Additionally, during the conduct of business with COUNTY, the 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 the awardee(s) has in presenting any offer(s) colluded with any other party or parties for the purpose of preventing any other offer being made, then the agreement so awarded shall be terminated and that person or entity shall be liable for all damages sustained by COUNTY.

**19. COOPERATIVE USE OF RESULTING AGREEMENT:**

As allowed by law, the COUNTY has entered into cooperative procurement agreements that enable other Public Agencies to utilize procurement agreements developed by the COUNTY. The 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 agreement and required to satisfy particular Public Agency code or functional requirements and are within the intended scope of the solicitation and resulting agreement. 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 agreements can be viewed at the Procurement Department Internet home page: <http://www.pima.gov/procure> by selecting the link titled *Authorized Use of COUNTY Agreements*.

**20. PATENT INDEMNITY:**

Contractor shall 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 shall 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 the 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.

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## **22. UNFAIR COMPETITION AND OTHER LAWS:**

Responses shall be in accordance 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 shall comply with all federal, state, and local laws, rules, 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 those services in Arizona. The laws and regulations of the State of Arizona shall govern the rights, performance and disputes of and between the parties. Any action relating to this Contract shall be brought in a court of the State of Arizona in Pima County.

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

## **24. ASSIGNMENT:**

Contractor shall not assign its rights to the resultant agreement, in whole or in part, without prior written approval of the COUNTY. Approval may be withheld at the sole discretion of COUNTY, provided that such approval shall not be unreasonably withheld.

## **25. CONFLICT OF INTEREST:**

All agreements are subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated into and made part of all resultant Master Agreement or Purchase Orders as if set forth in full herein.

## **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 shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin."

## **27. NON-APPROPRIATION OF FUNDS:**

Pursuant to the provisions of A.R.S. § 11-251, sub-section 42, this agreement may be canceled if for any reason the COUNTY Board of Supervisors does not appropriate funds for the stated purpose of maintaining any agreement. In the event of such cancellation, COUNTY shall have no further obligation, other than for services or goods that have already been received.

## **28. PUBLIC INFORMATION:**

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 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 and/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 A.R.S. § 39-121 et seq., COUNTY shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the Contractor of the request for release, unless Contractor has, within the ten 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 shall not be counted in the time calculation. Contractor shall 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 shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall COUNTY be 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 are unique to the services or products supplied to COUNTY are included in the agreed upon Unit Price unless specifically stated otherwise in the agreement. It is agreed that such tools and documentation are the property of COUNTY and shall

be marked, as is practical, as the "Property of Pima County" and if requested by COUNTY a copy of the tooling and documentation shall be delivered to COUNTY within twenty days of acceptance by the COUNTY of the first article sample, or not later than ten days of termination of the agreement associated with their development, without additional cost to COUNTY. The 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, the 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 the Contractor result in additional costs to the COUNTY the Contractor agrees to reimburse the COUNTY for said actual and incremental costs provided that the COUNTY had given the Contractor reasonable time to respond to the COUNTY's requests for support.

## **30. AMERICANS WITH DISABILITIES ACT:**

Contractor shall 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:**

Agreements resulting from this solicitation are non-exclusive and are for the sole convenience of Pima 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 11.20.010.

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**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 anytime, without penalty or recourse when in the best interests of the COUNTY. Upon receipt of written notice, Contractor shall immediately cease all work as directed by the notice, notify all sub-Contractor of the effective date of termination and take appropriate actions to minimize further costs to the COUNTY. In the event of termination under this paragraph, all documents, data, and reports prepared by the Contractor under the contract shall become the property of and be promptly delivered to the COUNTY. The Contractor shall be 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 shall apply.

**34. ORDER OF PRECEDENCE-CONFLICTING DOCUMENTS:**

In the event that there are inconsistencies between agreement documents, following is the order of precedence, superior to subordinate, that shall be applied 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 ; standard terms and conditions; other solicitation documents.

**35. INDEPENDENT CONTRACTOR:**

The status of the Contractor shall be that of an independent Contractor. Neither Contractor nor Contractor officer's agents or employees shall be considered an employee of COUNTY or be entitled to receive any employment-related fringe benefits under the COUNTY Merit System. Contractor shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of Contractor's failure to pay such taxes. Contractor shall be solely responsible for program development and operation.

**36. BOOKS AND RECORDS:**

Contractor shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of COUNTY. In addition, Contractor shall retain all records relating to this contract at least 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 shall be deemed an original, and together such counterparts shall constitute one and the same instrument. For the purposes of the Master Agreement and Purchase Order, the signed offer of Respondent and the signed acceptance of COUNTY shall each be deemed an original and together shall 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 shall not be 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, shall not be construed as 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 shall not be construed as an accord and satisfaction.

**40. SUBCONTRACTOR:**

CONTRACTOR shall be 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 the CONTRACTOR is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract shall create 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 shall be 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 shall further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

COUNTY shall have 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, shall be deemed to be 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 shall be required to 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 shall 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 will be deemed to be a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

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Any additional costs attributable directly or indirectly to remedial action under this Article shall be 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 shall be deemed excusable delay for which CONTRACTOR shall be entitled to an extension of time, but not costs.

**43. CONTROL OF DATA PROVIDED BY PIMA COUNTY:**

For those projects and contracts where Pima County has provided data to enable the Contractor to provide contracted services or products, unless otherwise specified and agreed to in writing by Pima County, Contractor shall treat, control and limit access to said information as confidential and under no circumstances release any data provided by County during the term of this agreement and thereafter, including but not limited to personal identifying information as defined by A.R.S. § 44-1373, and is further prohibited from selling such data directly or through a third party. Upon termination of the associated agreement or completion of the required contractual intent whichever occurs sooner, Contractor shall either return all data to County or shall destroy such data and confirm destruction in writing in a timely manner not to exceed 60 calendar days.

**END OF PIMA COUNTY STANDARD TERMS AND CONDITIONS**