



**PIMA COUNTY PROCUREMENT DEPARTMENT**  
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Mailstop # DT-AB3-126  
Tucson, Arizona 85701-1317  
Telephone: (520) 724-8161

**SOLICITATION ADDENDUM**

**Solicitation Number:** IFB #227558  
**Solicitation Title:** Emergency Cleanup and Stabilization Services  
**Commodity /Contracts Officer:** Julie K McWilliams  
**Addendum Number:** #1  
**Addendum Date:** August 30, 2016

The following changes, clarifications and/or additions shall be incorporated to the above-referenced Invitation for Bid.

**Question and Answer**

- Q1: For Minimum Qualification #3, can the reference form be completed by an insurance company?  
A1: **Yes.**
- Q2: For Minimum Qualification #3, do the references have to be local?  
A2: **No.**
- Q3: Who are Pima County's current contractors for this service?  
A3: **Nash Cleaning Corporation dba Quality Residential and Restoration Services and Titan Restoration of Tucson.**
- Q4: How does Pima County notify the contractor when services are required?  
A4: **Pima County's Regional Wastewater Reclamation Department, Facilities Management, or Risk Management will call the contractor when services are needed.**
- Q5: How does Pima County establish Primary and Secondary awards?  
A5: **The qualified respondent submitting the lowest bid will be awarded the Primary contract. The qualified respondent submitting the second-lowest bid will be awarded the Secondary contract.**

**Revisions**

- REMOVE Offer Agreement: Emergency Cleanup and Stabilization Services (18 pages)** in its entirety and **REPLACE** with **Offer Agreement (Addendum #1): Emergency Cleanup and Stabilization Services (18 pages)** attached herein.  
Added: *"It is the intent of Pima County to contract with a Primary and a Secondary Contractor for emergency cleanup and stabilization services. The Secondary Contractor will only be utilized by the County when the Primary Contractor is unable to perform the requested services within the timeframe specified in the order."*
- REMOVE Attachment A: Reference Form (2 pages)** in its entirety and **REPLACE** with **Attachment A: Reference Form (Addendum #1) (2 pages)** attached herein.
- REMOVE Exhibit A: Unit Prices (3 pages)** in its entirety and **REPLACE** with **Exhibit A: Unit Prices (Addendum #1) (3 pages)** attached herein.  
Added: Line item 59 "*Application of Biocide*".  
Added: Line item 60 "*General Hygiene Testing Using ATP Test Kit*".

Bidders must acknowledge receipt of this Addendum on the bid form provided in Section 13 of the solicitation. Failure to do so **will** render the bid non-responsive.

All other specifications, terms and conditions, not specifically changed by this Addendum, shall remain the same.

**Julie K McWilliams**  
Commodity/Contracts Officer  
Pima County Procurement  
Materials & Services Division  
*Julie.Mcwilliams@pima.gov*

## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 1 of 18

### **1. INTENT:**

This document is intended to establish one (1) Primary and one (1) Secondary "As Required" indefinite delivery/indefinite quantity (IDIQ) "Master Agreement" contracts to provide Pima County ("County") with such quantities of emergency cleanup and stabilization services as County may order from time to time by issue of Delivery Order (DO) or Delivery Order Maximo (DOM) pursuant to a resulting contract. As defined by the Pima County Standard Terms and Conditions (STC) included herein this contract is non-exclusive and may be terminated for any reason without penalty or cost to County.

It is the intent of Pima County to contract with a **Primary** and a **Secondary** Contractor for emergency cleanup and stabilization services. The Secondary Contractor will only be utilized by the County when the Primary Contractor is unable to perform the requested services within the timeframe specified in the order.

Although particular County Departments may be identified in the solicitation, unless otherwise documented by the executed contract, all County Departments may utilize the resulting agreement.

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 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:**

CERTIFY MINIMUM QUALIFICATIONS BY CHECKING THE RESPONSE BOX AND PROVIDING APPLICABLE INFORMATION OR DOCUMENTATION. An unmarked item will be the cause of your offer to be rejected as *non-responsive*.

Contractor will research the designated Issuing Agency requirements to perform the requested work and will list **currently active** license number(s), Description & Class for the required licenses and will agree to continuously maintain said license(s) for the term of the contract if awarded by County and to notify County within ten (10) workdays of any change in license status.

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**OFFER AGREEMENT (Addendum #1)**

MQ Line#	MINIMUM QUALIFICATIONS	CHECK <input checked="" type="checkbox"/> appropriate response certifying agreement with the requirement.
1	Contractor certifies that it is competent, willing and responsible for performing the services and/or providing the products in accordance with all requirements of the solicitation and this contract.	<input type="checkbox"/> <b>Yes</b>
2	Contractor certifies that it possesses all licenses required by applicable Agencies to satisfy the requirements of this contract throughout the term of this contract. Contractor agrees to provide notification of any change in licensure status or sanctions taken against the Contractor during the contract period.	<input type="checkbox"/> <b>Yes</b>
3	<p>Contractor certifies they have a minimum five (5) years' experience providing emergency cleanup and stabilization services as outlined in this solicitation.</p> <p>Bid Package includes <b>at least three (3) references</b> from commercial clients demonstrating five (5) consecutive years' experience providing emergency cleanup and stabilization services. Each reference must provide an example of work performed. At least one (1) example must reflect scope of work exceeding \$10,000.00 (<b>Attachment A</b>)</p>	<input type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>Yes</b>
4	<p>Contractor certifies they have a EPA LeadSafe Firm Certification as required under 40 CFR 745.80, Subpart E (EPA Lead RRP). Website: <a href="http://www.epa.gov/lead/getcertified">www.epa.gov/lead/getcertified</a></p> <p><b>Bid Package includes a copy of the Contractor's EPA LeadSafe Firm Certification.</b></p>	<input type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>Yes</b>
5	<p>Contractor certifies its employees possess Renovator Certification as required under 40 CFR 745.80, Subpart E.</p> <p><b>Bid Package includes copy(ies) of Renovator Certification for all lead trained individuals.</b></p> <p><b>Note: Subcontractor certification is <u>NOT</u> acceptable.</b></p>	<input type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>Yes</b>
6	<p>Contractor certifies its employees are certified by The Institute of Inspection, Cleaning and Restoration Certification (IICRC).</p> <p><b>Bid Package includes copy(ies) of IICRC Certification for all applicable employees.</b></p> <p><b>Note: Subcontractor certification is <u>NOT</u> acceptable.</b></p>	<input type="checkbox"/> <b>Yes</b>  <input type="checkbox"/> <b>Yes</b>

MINIMUM QUALIFICATIONS CONTINUED NEXT PAGE



## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 4 of 18

4.3. The work is not to include work beyond cleanup and stabilization. Such work, often referred to as "restoration", is outside the scope of this contract. Work that involves the reconstruction or replacement of architectural items will be bid separately on other County contracts.

**This solicitation specifically excludes all activities governed by Arizona Revised Statutes Title 34 including but not limited to: new carpet installation, new tile installation, hanging/texturing drywall, interior/exterior painting, carpentry (other than minor boarding windows, shoring walls, etc.), building reconstruction, plumbing installation, electrical repair/installation, HVAC and/or refrigerating system repair/installation, insulation repair/replacement, sprinkler system repair/replacement, replacement/installation windows and/or window coverings, etc.**

4.4. Contractor agrees to perform work at the request of County to be billed to the County at rates not more than those agreed to under the agreement. Additional materials and supplies required shall not be billed unless prior approval is obtained by the County. **Contractor will not charge County for fundamental tasks associated with the scope of this solicitation (i.e., measuring floor areas, wall areas, ceiling areas, perimeters, etc.) or for incidental small supplies as the job requires.**

4.5. **Equipment Required:** The Contractor shall provide all cleaning equipment specified in Section 4.31 of this agreement. The cleaning equipment and standards of performance listed shall be considered as the *minimum* cleaning equipment and standard of performance required to provide acceptable services. **Contractor will not charge County for its employees' Personal Protective Equipment (PPE) including, but not limited to, gloves, booties, Tyvek Suits, etc.**

4.6. **Work Schedule:** The Contractor shall respond to scheduled and emergency calls for service in an efficient manner, not utilizing excessive resources for scope of work. Contractor shall be responsible for scheduling work for specific emergencies but work shall be scheduled in such a way to ensure:

4.6.1. Minimal disruption of the functions and normal day-to-day operations of the County facility or facility/home of a County Claimant.

4.6.2. Prompt stabilization of condition of County facilities or facilities/homes of County Claimants to accommodate return to normal, day-to-day operations as rapidly and expeditiously as possible.

4.7. It is expressly understood by the Contractor that the intent of this contract is to supply complete IIRCR certified cleaning and/or emergency cleanup and stabilization services to the facility as dictated by the specific event requiring such services. Contractor's services shall include steps taken to protect County equipment or assets or that of County Claimant, and, where needed, prevention of growth of mold or other conditions that would impact the successful operation of the facility.

4.8. **Quality of Work:** Pima County is to be sole judge of said quality and required frequency of services provided herewith. The Director of Facilities Management (for County work) or the Director of Waste Management (for County Claimant work) or their authorized representative may:

4.8.1. Stop work when deemed necessary.

4.8.2. Reject any or all work and/or materials which do not conform to contract standards and require the work be redone.

4.8.3. When the need may arise, direct the work crew Supervisor to any portion of the required work which may need attention.

4.8.4. Make decisions and give directions regarding questions which may arise in the execution of the work.

Whenever any of the above actions are necessary, the Director or his authorized representative will work thoroughly and cooperate with the Contractor's supervisors.

4.9. **Training:** The Contractor shall provide appropriate Institute of Inspection Cleaning and Restoration Certificate (IICRC) training to employees prior to the beginning of service under the agreement to ensure competent performance of the work as required. The contractor must have at least one person certified in each of the following; AMRT – Applied microbial remediation technician, ASD – Applied structural drying technician, CCT – Carpet cleaning technician, FSRT – Fire and smoke restoration technician, OCT – Odor control technician, UFT – Upholstery and fabric cleaning technician, WRT – water damage restoration technician. Contractor shall provide copies of the Company's written Hazardous Communications Program upon request. All employees and representatives must be trained to recognize and understand the Universal Safety symbols. Only trained professionals should be allowed on County jobs.

## OFFER AGREEMENT (Addendum #1)

**Solicitation #:** 227558 **Title:** Emergency Cleanup and Stabilization Services **Page** 5 of 18

- 4.10. **Facility Access:** Access to County facilities shall be as directed by the Facilities Management director or an authorized representative. Contractor shall arrange and obtain access from County Claimants as necessary to perform the work. Contractor's employees are not authorized access other than for services required by the cleaning or stabilization emergency.
- 4.11. **Office:** The Contractor is required to maintain a fully staffed and equipped facility in proximity to service any location within the boundaries of Pima County no less than ninety (90) minutes of receiving initial notice from County (excluding the town of Ajo).
- 4.12. **Asbestos:** This provision serves as notice to the Contractor of the existence of asbestos-containing materials in various Pima County facilities. Asbestos may be present in any building material including, but not limited to, floor coverings, fireproofing, wallboard, pipe insulation, duct insulation, other insulation products, seam tape, cement asbestos products, packings, gaskets and adhesives. Asbestos-containing materials may be present in Pima County owned/leased facilities as well as the in County Claimants' homes and facilities. Contractor shall manage its cleanup and stabilization work in accordance with requirements for working around asbestos. Pima County will provide the contractor with available asbestos inspection reports when working in County facilities.
- 4.13. **Adherence to Regulations:** Contractor shall comply with all local, state and federal rules and regulations related to environmental protection and safety requirements, including, but not limited to the following:
- 4.13.1. Title 29 of the Code of Federal Regulations, Parts 1926, Occupational Safety and Health in Construction Industry.
  - 4.13.2. Title 40 Code of Federal Regulations, Environmental Protection.
  - 4.13.3. State ADEQ, Arizona Administrative Code, Title 18, Arizona Revised Statutes, Title 49.
- 4.14. Any hazardous waste as defined in any of the above listed regulations handled by the Contractor shall be the responsibility of the contractor.
- 4.15. **SDS (MSDS) Notebooks:** Contractor shall maintain a notebook containing current (dated within the past three years from the date of the agreement or verified as most current by manufacturer) Safety Data Sheets (SDS) (formerly called MSDS) for all materials being used on each site, whether or not they are defined as a hazardous material. The notebook shall be available upon request and kept up-to-date as materials are brought onto Pima County sites.
- 4.16. **Spill Plan:** Contractor shall determine whether any of the products it employs could require an emergency spill response plan for any hazardous material used. If such determination is made, a plan for directing employees in proper response procedures must be immediately available upon request. At a minimum, the response plan must address the following information:
- 4.16.1. Provide a description of equipment available to contain and/or respond to an emergency spill of the material.
  - 4.16.2. Notification procedures.
  - 4.16.3. Response coordination procedures between Contractor and Pima County or County Claimant.
  - 4.16.4. Written description of training provided to Contractor's employees.
- 4.17. **Labeling:** All material (hazardous and non-hazardous) used on Pima County property shall be properly labeled. Any containers that are filled from larger containers must also be labeled.
- 4.18. **Hazardous Materials Documentation:** Contractor shall make all required documentation available upon request of Pima County Risk Management or Facilities Management safety representatives. Contractor's safety representative shall be available to meet with Pima County safety representatives or the County Claimant's designated person to review the Contractor's hazardous materials program documents, procedures and inspect the job site to insure the requirements specified herein are in compliance. Contractor shall also provide copies of all permits obtained from environmental regulatory agencies upon request.
- 4.19. **Security:** The County does not assume any responsibility, at any time, for the protection of or for loss of equipment or materials, from the time the Contractor is on site until the final acceptance of work by the project manager.
- 4.20. **Contractor's Performance:** The Contractor shall furnish all necessary trained personnel, supervision, scheduling, equipment and tools, cleaning chemicals, supplies, and other accessories to perform the emergency cleanup and stabilization services pursuant to the specifications called for in the agreement.

## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 6 of 18

- 4.21. **Contacting the Contractor:** The Contractor must have a free of charge phone number that may be contacted immediately anytime during a twenty-four (24) hour period, seven days a week and holidays. At no time will County be without a point of contact for all Contractor services. The County is expecting phone contact with a responsible party within 30 minutes of the initial call.
- 4.22. **Type of Supervision:** Contractor shall provide on-site supervision for all work conducted on County sites to ensure competent performance of the work during the scheduled hours. Contractor will make routine inspections to ensure that the work is performed as required by the agreement.
- 4.23. **Unsatisfactory Performance:** Upon notification of unsatisfactory performance, the Contractor will have one (1) hour to initiate corrective action in any specific instance. In the event the Contractor has not responded within the allotted sixty (60) minutes to telephone contact, or the Contractor has not initiated corrective action for the unsatisfactory performance, the County has the right to immediately complete the work to its satisfaction either through the use of County employees at a rate equal to the employee's hourly rate plus twenty-percent (20%) for County administrative costs, or through the use of outside Contractor(s) at the rate charged to the County plus twenty-percent (20%), and shall deduct that amount from any balances due or which may become due to Contractor.
- 4.24. **Invoicing:** Upon satisfactory inspection and acceptance of the cleanup and stabilization services by the respective County Department, an invoice shall be submitted by the Contractor. All invoices shall contain: the Delivery Order number; Contractor's name, address, and telephone number; date that the service(s) is being billed; and total dollar charges. Billing must include the site location, date the site was serviced, detailed site costs, list of equipment used, description of work performed, and total amount of invoice.
- 4.25. **Contractor Responsibility:** The Contractor will be responsible for any damages caused to Pima County or County Claimant's property by Contractor's negligence, carelessness, or improper use of equipment as applicable when such property is the responsibility or in the custody of the Contractor or his employees.
- 4.26. **Contractor License Requirement:** The Contractor shall procure all permits and licenses, and pay all charges and fees necessary and incidental to the lawful conduct of the business. The Contractor shall keep himself fully informed of existing and future Federal, State, and Local laws, ordinances and regulations which in any manner affect the fulfillment of this contract and shall comply with same.
- 4.27. **Guarantee:** The materials and supplies called for herein shall be the best of their grade and types, prepared according to the best available standards or accepted formulas, and thoroughly tested and subjected to stringent examination and standardization.
- 4.28. **Price Reductions:** By submitting a bid in response to this solicitation, the Contractor agrees to guarantee that Pima County is receiving the lowest price offered by your company to other customers for similar services at comparable volumes in a similar geographic area.
- If during the contract term, Contractor offers or provides a more favorable price to another customer for services identical to those that contractor provides to County hereunder, contractor will provide a corresponding price reduction to County for the remainder of the term.
- 4.29. **Employees of the Contractor:** No one except authorized employees of the Contractor are allowed on the premises of Pima County Buildings. Contractor's employees are NOT to be accompanied in their work area by acquaintances, family members, assistants, or any other person unless said person is an authorized employee of the Contractor. Failure of the Contractor to meet this requirement will result in permanent removal of the employee from County buildings. At the County's option, the County may require security screening of all employees performing work at the Main Jail, Superior Court, Juvenile Courts and Detention, Sheriff Dept sites and Justice Courts. The Contractor must, however, furnish the County a current employee register upon issuance of the agreement and updated every six (6) months thereafter. This register must contain the name, phone number and address of each employee involved in the services for the agreement. Employees of the contractor should wear a company uniform with company logo and company identification while working County jobs.
- 4.30. **Removal of Contractor's Employees:** The Contractor agrees to use only IICRC trained staff in the performance of the work. The County may require that the Contractor remove from the job covered by the agreement, any employee who endangers persons or property. Contractor shall furnish personnel who are trained and qualified to perform as to the specifications, and supervisors who will be responsible for the performance of their personnel.

## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 7 of 18

4.31. **Minimum Equipment Requirements:** At a minimum, Contractor is required to own, or have immediate access to the following equipment. Contractor vehicles used at County jobs should be clearly marked with company name and logo.

### 4.31.1. Water Damage Equipment

- 4.31.1.a Truck mount water extraction units, self-contained, with built in power source and built in generators capable of dual wand vacuum or single run of 700 ft each truck (for large job sites).
- 4.31.1.b Portable electric flood pumpers with 3600 gal/hour water removal rate for use in secured facilities.
- 4.31.1.c Hi-capacity submersible pumps for deep well, electrical vault or elevator shaft de-flooding.
- 4.31.1.d Multiple antimicrobial delivery devices, wet fogging, back pack sprayers and high pressure sprayers to apply mildewcide over a wide area in a short amount of time.

### 4.31.2. Fire Damage Equipment

- 4.31.2.a Large commercial ozone generators to destroy smoke odor and capable of deodorizing 750,000 cubic ft. each unit.
- 4.31.2.b Both gas and electric thermal foggers to apply smoke odor counteractant at up to 1.5 million cu. ft./hour
- 4.31.2.c Dry chemical sponges to remove soot from walls.
- 4.31.2.d HVAC cleaning equipment including several Hepa filter commercial vacuums, single motor, 9 amp. 50' cord with tools on board and 19" wide cleaning path, air compressors and duct cleaning equipment.
- 4.31.2.e Fire cleanup chemicals and supplies in sufficient quantity to immediately stabilize large facilities.
- 4.31.2.f Blood borne pathogen clean up materials in sufficient quantity to immediately stabilize large facilities.
- 4.31.2.g Biohazard disposal barrels.
- 4.31.2.h EPA registered disinfectants.
- 4.31.2.i PPE (personal protection equipment) for all employees.
- 4.31.2.j Tear gas removal equipment.
- 4.31.2.k Tear gas PPE.

### 4.31.3. Other Equipment

- 4.31.3.a Commercial Dehumidifier.
- 4.31.3.b Gas Generators.
- 4.31.3.c Hauling Trucks.
- 4.31.3.d 220-110 Power Converters.
- 4.31.3.e Infrared Scanning Camera for Thermographic Inspections.

**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)?

## 5. OFFER ACCEPTANCE AND ORDER RELEASES:

County will accept offers and execute contracts by issue of a Master Agreement (MA) to be effective on the document's date of issue without further action by either party. Master Agreement (MA) and Contract 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) or Delivery Order Maximo (DOM) 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.**

## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 8 of 18

Contractor must not supply materials or services pursuant to the contract that are not documented or authorized by a Delivery Order (DO) or Delivery Order Maximo (DOM) 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) or Delivery Order Maximo (DOM).

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 Delivery Order (DO) or Delivery Order Maximo (DOM) 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, Delivery Order (DO) or Delivery Order Maximo (DOM) 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.

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.

## OFFER AGREEMENT (Addendum #1)

**Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 9 of 18**

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) – Complete Attached EXHIBIT A**

#### **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 Delivery Order Maximo (DOM) or Contract.

Delivery locations:

Pima County Facilities Management  
150 West Congress, 3rd Floor  
Tucson, AZ 85701

Pima County Risk Management  
130 West Congress, 9th Floor  
Tucson, AZ 85701

**Contractor guarantees delivery of service in less than ninety (90) minutes after receiving notification by phone (excluding the town of Ajo).**

#### **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. 227558 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:**

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 arise out of the performance of the work under this Contract. The Contractor is free to purchase additional insurance.

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**11.1 Minimum Scope and Limits of Insurance:**

Contractor shall procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

**11.1.1 Commercial General Liability (CGL) –** Occurrence Form with limits of \$1,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, and broad form contractual liability coverage, and products – completed operations. Policy shall be endorsed to include Pollution Liability coverage.

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

**11.1.3 Workers' Compensation and Employers' Liability -** Statutory requirements and benefits. Coverage is compulsory for employers of one or more employees. Employer's Liability - \$500,000.

Note: The Workers' Compensation requirement shall not apply to a Contractor that is exempt under A.R.S. § 23-901, and when such Contractor executes the appropriate Pima County Sole Proprietor (Independent Contractor) Waiver form.

**11.1.4 Professional Liability (Errors and Omissions) Insurance –** This insurance is required when soliciting work from licensed professionals. The policy limits shall be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The insurance policy shall cover professional misconduct or negligent acts of anyone performing any services under this contract.

**11.2 Additional Insurance Requirements:**

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

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

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

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

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

**11.3 Verification of Coverage:**

Contractor shall furnish Pima County with certificates of insurance (valid ACORD form or equivalent approved by Pima County) as required by this Contract within fourteen (14) calendar days from the date that the Notification of Award is issued. An authorized representative of the insurer shall sign the certificates.

**OFFER AGREEMENT (Addendum #1)**

11.3.1 All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

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

**11.4 Notice of Cancellation:**

For each insurance policy required by the insurance provisions of this contract, Contractor's insurance shall not be permitted to expire, be suspended or canceled without thirty (30) days prior written notice to Pima County. Such notice shall be mailed, emailed, hand-delivered or sent by facsimile transmission to the Pima County Contracting Representative. Notice shall include the Pima County project or contract number and project description.

**11.5 Subcontractors:**

Contractor's certificate(s) will include all subcontractors as additional insureds under its policies **OR** Contractor will furnish to County upon request separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

**11.6 Approval and Modifications:**

Pima County Risk Management reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

**12. PERFORMANCE BOND:**

None

**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

**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.

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**OFFER AGREEMENT (Addendum #1)**

**Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 12 of 18**

**15. BID/OFFER CERTIFICATION:**

**CONTRACTOR LEGAL NAME:** \_\_\_\_\_

**BUSINESS ALSO KNOWN AS:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**CITY/STATE/ZIP:** \_\_\_\_\_

**REMIT TO ADDRESS:** \_\_\_\_\_

**CITY/STATE/ZIP:** \_\_\_\_\_

**CONTACT PERSON NAME/TITLE:** \_\_\_\_\_

**PHONE:** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**CONTACT PERSON EMAIL ADDRESS:** \_\_\_\_\_

**EMAIL ADDRESS TO WHICH ORDERS & CONTRACTS SHALL BE TRANSMITTED:**

\_\_\_\_\_

**CORPORATE HEADQUARTERS LOCATION:**

**STREET ADDRESS, CITY, STATE, ZIP:** \_\_\_\_\_

\_\_\_\_\_

By signing and submitting these Offer Agreement documents, the undersigned certifies that they are legally authorized to represent and bind Contractor to legal agreements, that all information submitted is accurate and complete, that Contractor has reviewed the Pima County Procurement website for solicitation addenda and has incorporated all such addenda to its offer, that Contractor is qualified and willing to provide the items requested, and that Contractor will comply with all requirements of the solicitation. The Unit Pricing includes all costs incidental to the provision of the items in compliance with the above documents; no additional payment will be made. Conditional offers that modify the solicitation requirements may be deemed not 'responsive' and may not be evaluated. Contractor'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 will require Contractor 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.

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

\_\_\_\_\_  
**PRINTED NAME & TITLE OF AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER**

**PHONE AND E-MAIL:** \_\_\_\_\_

**County Attorney Contract Approval "As to Form"**

**PIMA COUNTY STANDARD TERMS AND CONDITIONS (06-01-16)**

**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 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 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.

**4. AWARD:**

Awards will be made by either the Procurement Director or the Board of Supervisors in accordance with the 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.

Nothing in this clause reduces 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, 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

## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 15 of 18

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.pima.gov/procure> by selecting the link titled *Authorized Use of Pima 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:**

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Pima County, and its departments, districts, officials, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, costs, losses, or expenses, (including reasonable attorney's fees), (hereinafter collectively referred to as "Claims") arising out of actual or alleged bodily injury or personal injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of Contractor's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. This indemnification will survive the termination of the above listed contract with the Contractor.

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

Responses must 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.

## OFFER AGREEMENT (Addendum #1)

Solicitation #: 227558 Title: Emergency Cleanup and Stabilization Services Page 16 of 18

### **23. COMPLIANCE WITH LAWS:**

Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. In the event any services 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 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.

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

### **24. ASSIGNMENT:**

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

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

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

### **26. NON-DISCRIMINATION:**

Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this contract as if set forth in full herein **including flow down of all provisions and requirements to any subcontractors**. During the performance of this contract, Contractor must not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

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

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

### **28. PUBLIC 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 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 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 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

## OFFER AGREEMENT (Addendum #1)

**Solicitation #:** 227558 **Title:** Emergency Cleanup and Stabilization Services **Page** 17 of 18

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.

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

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

### **31. NON-EXCLUSIVE:**

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

### **32. PROTESTS:**

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

### **33. TERMINATION:**

County reserves the right to terminate any Master Agreement, Purchase Order, Delivery Order, Delivery Order Maximo or award, in whole or in part, at any time, without penalty or recourse, when in the best interests of County. Upon receipt of written notice, Contractor will immediately cease all work as directed by the notice, notify all subcontractors of the effective date of termination and take appropriate actions to minimize further costs to County. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract become the property of 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 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. 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.

**44. ISRAEL BOYCOTT CERTIFICATION:**

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

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

**ATTACHMENT A: REFERENCE FORM (Two Pages)**

**(Addendum #1)**



**Pima County would like to thank you for taking the time to complete this reference form.** Your firm has been identified as a current client of the below named Contractor. The Contractor is interested in submitting a bid in response to Pima County's IFB 227558 for Emergency Cleanup and Stabilization Services. This form will be used by the County in evaluating the capabilities of the vendor and product quality.

**PLEASE COMPLETE EACH AND EVERY SECTION.**

**PLEASE COMPLETE EACH SECTION.**

**SECTION 1:**

Name of Contractor for whom reference is given: \_\_\_\_\_

Your organization's business name: \_\_\_\_\_

Your Name and title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-Mail address: \_\_\_\_\_

**SECTION 2:**

1. Does Contractor currently provide emergency cleanup and stabilization services for your company/agency?

**YES**  **NO**  (place a check mark in applicable box)

2. Has the Contractor been performing emergency cleanup and stabilization services for your company/agency for at least five (5) consecutive years?

**YES**  **NO**  (place a check mark in applicable box). Start date of Contract: \_\_\_\_\_

3. Check as applicable emergency cleanup and stabilization services performed by the Contractor:

Resources used to perform emergency cleanup and stabilization services:

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Dehumidifiers                  | <input type="checkbox"/> Pumps           | <input type="checkbox"/> Ozone generators               |
| <input type="checkbox"/> Blowers, air movers            | <input type="checkbox"/> Gas generators  | <input type="checkbox"/> HEPA filter commercial vacuums |
| <input type="checkbox"/> Biohazard disposal barrels     | <input type="checkbox"/> Demolition crew | <input type="checkbox"/> Crystal odor counteractants    |
| <input type="checkbox"/> Truck-mounted extraction units | <input type="checkbox"/> Hauling trucks  | <input type="checkbox"/> 220-110 power converters       |

Other: \_\_\_\_\_

Types of work performed:

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Measuring floors, walls, etc. | <input type="checkbox"/> Pressure wash/clean  | <input type="checkbox"/> Bacteria control – human waste |
| <input type="checkbox"/> Infectious liquid containment | <input type="checkbox"/> Clean air ducts      | <input type="checkbox"/> Removal blood/human waste      |
| <input type="checkbox"/> Haul/dispose waste non-hazmat | <input type="checkbox"/> Gas fogging          | <input type="checkbox"/> Disinfect, deodorize, sanitize |
| <input type="checkbox"/> Electrical thermal            | <input type="checkbox"/> Smoke wash           | <input type="checkbox"/> Tear gas residue removal       |
| <input type="checkbox"/> Lead testing                  | <input type="checkbox"/> E coli testing       | <input type="checkbox"/> Anti-microbial application     |
| <input type="checkbox"/> Asbestos testing              | <input type="checkbox"/> Move/block furniture | <input type="checkbox"/> Thermographic inspections      |

Other: \_\_\_\_\_

