

CITY CLERK  
ORIGINAL

C-9532-1  
11/10/2015

AMENDMENT NO. 1  
TO  
THE LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE  
AND  
FIVE G INC.

This Amendment No. 1 ("Amendment") to the Linking Agreement Between the City of Glendale and Five G Inc. ("Agreement") is made this 10 day of November 2015 ("Effective Date"), by and between the City of Glendale, an Arizona municipal corporation ("City") and Five G, Inc., an Arizona corporation, authorized to do business in Arizona ("Contractor").

RECITALS

- A. City and Contractor previously entered into a Linking Agreement between the City of Glendale and Five G Inc., for Guard Rail Installation, Services and Accessories, Contract No. C-9532, dated October 28, 2014 ("Agreement"); and
- B. The original Maricopa County Agreement, Contract No. 12180-S, as amended, expires on April 30, 2016, with an option to renew up to a maximum of three (3) additional years; and
- C. City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this Amendment.

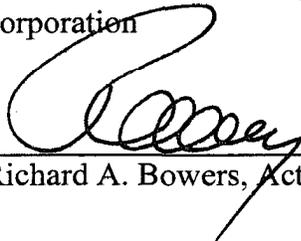
AGREEMENT

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor hereby agree as follows:

- 1. **Recitals.** The recitals set forth above are not merely recitals, but form an integral part of this Amendment.
- 2. **Term.** The term of the Agreement is extended for a one-year period from the Effective Date of this Agreement through April 30, 2016, with an option to renew up to a maximum of three (3) additional years, unless otherwise terminated or canceled as provided by the Agreement. All other provisions of the Agreement except as set forth in this Amendment shall remain in their entirety.

3. **Scope of Work.** The Scope of Work is unchanged.
4. **Compensation.** The compensation of the Agreement is amended and shall not exceed \$80,000 annually or \$320,000 for the entire term of the contract.
5. **Ratification of Agreement.** City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

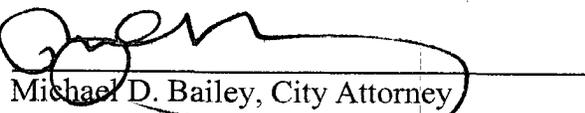
CITY OF GLENDALE, an Arizona municipal corporation

  
Richard A. Bowers, Acting City Manager

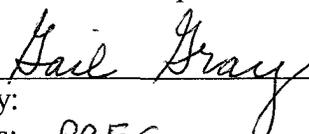
ATTEST:

  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

  
Michael D. Bailey, City Attorney

Five G Inc.,  
an Arizona corporation

  
By: Gail Gray  
Its: PRES.

# CITY CLERK ORIGINAL

C-9532  
10/28/2014

## LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND FIVE G INC.

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this 9 day of December, 2014, between the City of Glendale, an Arizona municipal corporation (the "City"), and Five G Inc., an Arizona corporation ("Contractor"), collectively, the "Parties."

### RECITALS

- A. On April 11, 2013, Maricopa County entered into a contract with Contractor to purchase the goods and services described in the **Guard Rail Installation, Services and Accessories, Contract No. 12180-S** which is attached hereto as **Exhibit A**. The **Maricopa County's Guard Rail Installation, Services and Accessories** permits its cooperative use by other governmental agencies including the City, pursuant to the Strategic Alliance for Volume Expenditures (SAVE) intergovernmental cooperative purchase agreement. The **Maricopa County's Guard Rail Installation, Services and Accessories** is hereinafter referred to as the Cooperative Purchasing Agreement.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing the supplies and/or services from Contractor pursuant to Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement award and rate sheet, which are attached hereto as part of **Exhibit B**, purchases can be made by governmental entities from the date of award, which was **April 11, 2013**, until the date the contract expires on **April 11, 2016**, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting

parties. The Cooperative Purchasing Agreement, however, may not extend the contract beyond **April 11, 2019**. The initial period of this Agreement therefore is the period from the Effective Date of this Agreement until **April 11, 2016**.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached hereto as **Exhibit B**.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporate into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as the Cooperative Purchasing Agreement, unless the City and Contractor agree otherwise, as provided in **Exhibit B** hereto.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed **\$40,000**.

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

City of Glendale  
c/o Ken Vayda  
6210 W. Myrtle Avenue, Suite #111  
Glendale, Arizona 85301  
623-930-2674

and

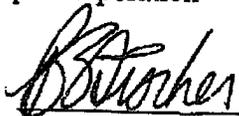
Five G Inc.  
c/o John Gray  
3801 E. Superior Avenue  
Phoenix, Arizona 85040-1644  
602-437-0201

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

“City”

City of Glendale, an Arizona  
municipal corporation

By:

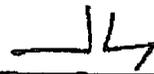


Brenda S. Fischer  
City Manager

“Contractor”

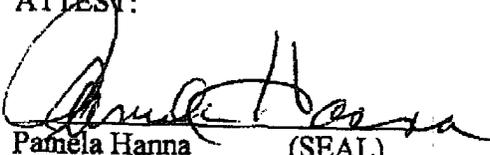
Five G Inc.  
an Arizona corporation

By:



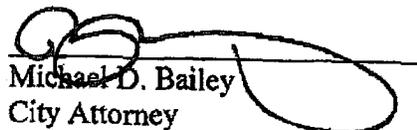
John Gray, Corporate Secretary

ATTEST:



Pamela Hanna (SEAL)  
City Clerk

APPROVED AS TO FORM:



Michael D. Bailey  
City Attorney

**EXHIBIT A**

Maricopa County Contract No. 12180-S - Guard Rail Installation, Services and Accessories

SERIAL 12180 S      GUARD RAIL INSTALLATION, SERVICES & ACCESSORIES

DATE OF LAST REVISION: April 11, 2013      CONTRACT END DATE: April 30, 2016

**CONTRACT PERIOD THROUGH APRIL 30, 2016**

TO:            All Departments  
FROM:        Office of Procurement Services  
SUBJECT:     Contract for GUARD RAIL INSTALLATION, SERVICES & ACCESSORIES

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **April 11, 2013.**

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

---

Wes Baysinger, Chief Procurement Officer  
Office of Procurement Services

DW/mm  
Attach

Copy to:        Office of Procurement Services  
                  Valerie Chavez, MCDOT

**GUARD RAIL INSTALLATION, SERVICES & ACCESSORIES****1.0 INTENT:**

The intent of this contract is for providing Guard Rail Installation, Services and Accessories for various locations throughout Maricopa County. Construction and repair services of guardrail may include but are not limited to: supplying all labor, material, equipment and traffic control to construct new guardrail, reconstruct existing guardrail and install guardrail end treatments (extruded terminal, crash cushions, etc). Guardrail related construction activities shall include but not be limited to the delineation of guardrail sections and guardrail terminals, including all necessary components and markings, installed new or reconstructed.

Other governmental entities under agreement with the County may have access to services provided hereunder (see also Sections 2.22 and 2.23, below).

The County reserves the right to add additional contractors, at the County's sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County's needs or to ensure adequate competition on any project or task order work.

**2.0 SPECIFICATIONS:****2.1 CORRUGATED METAL GUARD RAIL**

Corrugated Metal Guard Rail Flared Ends and Wood Timber Posts shall meet the specifications of Section 415 of the Uniform Standard Specifications for Public Works Construction by the Maricopa Association of Governments (MAG) and MAG Standard Details Nos. 135-1, 135-2 & 135-3 and Maricopa County Department of Transportation (MDOT) supplement to MAG Section 415, current edition.

**2.2 GUARD RAIL EXTRUDED TERMINALS**

Guard Rail Extruded Terminals shall comply with the Maricopa County Department of Transportation (MDOT) supplement to MAG Sections 415 & 416, current edition. End terminals shall be Trinity Industries type ET-2000, or equal.

**2.3 PRISMATIC GUARD RAIL**

Prismatic guard rail reflector tabs shall comply with the Maricopa County Department of Transportation (MDOT) supplement to MAG Sections 415, current edition, and MCDOT Standard Drawing 3002 or 3003, Reflector Tab Detail.

**2.4 HARDWARE**

All hardware to be included pursuant to bolt and nuts as specified in Section 2.1 and Section 2.2 above.

**2.5 SPECIAL PROVISIONS – ADDITION OF SERVICES**

The following special provisions modify the MAG Uniform Standard Specifications as revised by the MCDOT Supplement to MAG Uniform Standard Specifications.

**2.5.1 SECTION 107 LEGAL REGULATIONS AND RESPONSIBILITY TO THE PUBLIC****2.6 (107.1) LAWS TO BE OBSERVED, add the following:**

The Contractor shall insure that contract operations are in compliance with procedures and requirements of the Maricopa County Air Pollution Control Rules and Ordinances with special attention given to the fugitive dust requirements. The Contractor shall pay any penalties imposed upon MCDOT where the violation is a direct result of actions or inactions by the Contractor, the contractor's employees or subcontractors.

- 2.7 (107.2) PERMITS
- 2.7.1 (107.2.1) AZPDES (NPDES) Construction General Permit Requirements, add the following:
- 2.7.1.1 Work assignments will not usually be subject to the Arizona Pollutant Discharge Elimination System (AZPDES) general permit requirements for construction sites under the Arizona Department of Environmental Quality (ADEQ), the AZPDES Construction General Permit. If a work assignment is subject to AZPDES permit requirements, payment terms will be negotiated.
- 2.8 (107.5) SAFETY, HEALTH, AND SANITATION PROVISIONS
- 2.8.1 (107.5.5) Safety Plan, add the following:
- 2.8.1.1 The Contractor's Safety Plan shall be submitted prior to commencement of work. The Contractor may submit a safety plan for all work performed under this contract. Prior to the commencement of work on each work assignment, the Contractor shall as a minimum review the Safety Plan for accuracy and completeness, then submit a revised plan incorporating any needed changes or submit confirmation that the safety plan on record is current and accurate. CONTRACTOR SAFETY PLAN GUIDELINES are available on the MCDOT website at:  
<http://www.mcdot.maricopa.gov/manuals/home.htm>
- 2.9 SECTION 108 COMMENCEMENT, PROSECUTION AND PROGRESS
- 2.9.1 (108.1) NOTICE TO PROCEED, add the following:
- 2.9.1.1 Each work assignment will have a Notice to Proceed issued after a Pre-Construction Conference has been conducted and submittals in accordance with section 108.1.1 (Pre-Construction Conference) have been received by the Engineer.
- 2.9.2 (108.1.1) PRE-CONSTRUCTION CONFERENCE, add the following:
- 2.9.2.1 The Contractor shall submit to the Engineer during the pre-construction conference a copy of the dust control plan approved by the Maricopa County Air Quality Department.
- 2.9.3 (108.9) FAILURE TO COMPLETE ON TIME, add the following:
- 2.9.3.1 The liquidated damages provisions of section 108.9 apply to each work assignment of the Job Order Contract. The original work assignment amount shall be used in the column labeled "Original Contract Amount" of Table 108-1 to determine the Daily Charges.
- 2.10 SECTION 401 TRAFFIC CONTROL
- 2.10.1 (401.7) PAYMENT
- 2.10.1.1 Payment for Traffic Control will be based upon approved time and material invoices, in accordance with Section 109.5 in an amount not to exceed the ALLOWANCE established by mutual agreement between the Contractor and the County for each work assignment.

2.11 SECTION 415 FLEXIBLE METAL GUARDRAIL

2.11.1 (415.1) DESCRIPTION is replaced with the following:

2.11.1.1 This work shall consist of constructing new flexible metal guardrail, adjusting existing guardrail height, repairing guardrail, removing guardrail, or removing and reconstructing existing guardrail.

2.11.2 (415.3) CONSTRUCTION REQUIREMENTS:

2.11.2.1 (415.3.1) General: is replaced with the following:

2.11.2.1.1 Any section of guardrail that is removed for modification shall be replaced within five calendar days of the date the guardrail is removed, unless otherwise directed by the Engineer. At the end of each day, incomplete guardrail sections having an exposed end toward oncoming traffic shall have an appropriate temporary protective end treatment acceptable to the engineer, set securely in place together with approved overnight traffic control devices in place.

2.11.2.2 (415.3.3) Roadway Guardrail, add the following:

2.11.2.2.1 Pilot hole drilling shall be provided at no extra cost where needed. Depending on the soil conditions where guardrail is installed, the Engineer may require slurry (1 Sack CLSM mix in accordance with section 728) around some if not all guardrail posts. Payment for slurry shall be included in the unit costs listed in Exhibit A (Unit Price List attached in Appendix B).

2.11.2.2.2 Guardrail installations shall be classified as follows:

2.11.2.2.2.1 Driven – Normally encountered ground condition that allows posts to be driven into the ground.

2.11.2.2.2.2 Machine Dug – Ground conditions do not allow posts to be driven. Placement requires use of an auger or other special equipment. The Engineer shall determine if Machine Digging is required.

2.11.2.2.2.3 Hand Dug – Required when utilities are shown to be within two feet of the post location.

2.11.2.2.2.4 Soft Dig – Required when obstruction precludes use of auger or other equipment.

2.11.2.3 (415.3.7) Reconstruct Guardrail:

2.11.2.3.1 Existing guardrail, guardrail terminals, guardrail transitions, anchor assemblies, end terminal assemblies, and other guardrail systems, shall be removed and reconstructed at the locations shown on the project plans, and in accordance with the provisions specified for new guardrail.

2.11.2.3.2 When reconstruct guardrail is specified, posts shall be completely removed and the voids backfilled and compacted. When guardrail anchor assemblies are removed, the existing

concrete foundation shall be fully removed and the void backfilled and compacted.

- 2.11.2.3.3 All guardrail components requiring removal shall be removed in such a manner as to prevent damage to and minimize the loss of the components.
- 2.11.2.3.4 If any materials designated for reconstruction are deemed by the Engineer to be unsuitable for reuse or if the quantities of existing materials are insufficient to complete the work, the contractor shall furnish new materials in sufficient quantities to complete the work. New materials will be paid at the rate indicated in Exhibit B (Unit Price List).
- 2.11.2.3.5 Items designated to be reused, which are lost, damaged or destroyed as a result of the contractor's operations, shall be repaired or replaced by the contractor at no additional cost to the County.
- 2.11.2.3.6 Existing post, blocks, rail elements or hardware which are not required for guardrail reconstruction or which the Engineer deems unsuitable for reconstruction, shall be removed and disposed of by the Contractor.
- 2.11.2.3.7 Where new bolt-holes in rail elements are required, the holes shall be made by punching or drilling. Flame-cut bolt-holes will not be permitted.
- 2.11.2.4 (415.3.8) Adjust Guardrail Height:
  - 2.11.2.4.1 This work consists of adjusting guardrail by raising or lowering it to the proper height to conform to with the details shown on the plans, or as directed by the Engineer and as specified in the special provisions.
  - 2.11.2.4.2 Remove existing guardrail and appurtenances. Remove and reinstall posts at the proper height, or raise posts to the proper height and set firmly by working grout or other materials under the post in a manner satisfactory to the Engineer.
  - 2.11.2.4.3 Reinstall all guardrail components during the same day they are removed.
  - 2.11.2.4.4 Materials damaged by the Contractor's operations shall be replaced by the Contractor at no additional cost to the County.
- 2.11.2.5 (415.3.9) Removal of Guardrail:
  - 2.11.2.5.1 Undamaged guardrail, posts, and end treatments indicated for removal and not designated for project reuse shall be removed and delivered to a county yard that the inspector and/or project manager will approve. Damaged guardrail that is designated for salvage will be transported to a metal recycle bin in a county yard. Guardrail and posts designated for salvage or re-use that are damaged by the contractor's operations shall be replaced at the Contractor's expense.
  - 2.11.2.5.2 Payment for Guardrail Removal shall include transporting the salvaged materials to a county yard.

- 2.11.2.5.3 NW Yard 12975 West Bell Road
- 2.11.2.5.4 SW Yard 26449 West State Route 85 (Buckeye)
- 2.11.2.5.5 SE Yard 2919 West Durango Street
- 2.11.2.5.6 NE Yard 41835 North New River Road, Phoenix AZ 85087

2.11.3 (415.4) METHOD OF MEASUREMENT, add the following:

- 2.11.3.1 Reconstructed guardrail of the various types will be measured by the linear foot. The limits of measurement shall conform to MCDOT Detail 3016.
- 2.11.3.2 Removed Guardrail and Adjusted Guardrail Height will be measured by the linear foot.
- 2.11.3.3 Nested guardrail, types 1, 2, and 3, and guardrail transitions will be measured by the unit each, complete and accepted as shown on the project plans.

2.11.4 (415.5) PAYMENT, add the following:

- 2.11.4.1 The contractor will be paid for furnishing and reconstructing guardrail related components, and hardware to replace components deemed by the Engineer unsuitable for reuse, or to supplement insufficient existing quantities required for reconstruction of the various types of guardrail and for the construction of new guard rail and related components . Payment will be at the contract unit prices
- 2.11.4.2 The accepted quantities of adjusted guardrail will be paid for at the Contract unit price for the pay item Adjusted Guardrail Height. Payment will be compensation in full for all materials, equipment, labor and incidentals necessary to complete the work as specified.

2.12 SECTION 416 GUARDRAIL END TERMINALS

2.12.1 (416.1) DESCRIPTION is replaced with the following:

- 2.12.1.1 The work under this section shall consist of furnishing all materials and constructing new end treatments sections adjusting existing height extruder head assembly, repairing or replacing damaged end treatment components and in accordance with specified details and the requirements of these specifications. This work shall also include all the work and materials to delineate guardrail end treatment.

2.12.2 (416.2) MATERIALS: is replaced with the following:

- 2.12.2.1 All guardrail terminal sections and guardrail transition sections shall be compliant to NCHRP 350 Test Level 3, published by the Federal Highway Administration or compliant with an equivalent test level of the AASHTO 2009 Manual for Assessing Safety Hardware (MASH) unless otherwise specifically approved by the Engineer. End terminals shall be type ET-PLUS as supplied by Trinity Highway Products LLC, 2525 Stemmons Freeway, Dallas Texas, 75207. Manufacturer's specification and installation instructions shall be submitted to the Engineer for approval and shall be available at the worksite during installation and inspection. The following Trinity Highway Products ET-Plus Details shall be used for installation of extruder end terminals:

- 2.12.2.1.1 Detail # SS 612 for the installation of the 50.0 ft. section,
- 2.12.2.1.2 Detail # SS 611 for the installation of the 37.5 ft. section, and

2.12.2.1.3 Detail # SS 610 for the installation of the 25.0 ft. section (Test Level 2).

2.12.3 (416.4) MEASUREMENT is replaced with the following:

2.12.3.1 (416.4.1) Guardrail End Terminals: Measurement for furnishing materials for reconstructing existing and installing new ET-PLUS terminal section will be per each, complete in place, including 25.0 feet, 37.5 feet or 50 feet of guardrail, guardrail extruder, offset strut, anchor assembly, steel tubes, posts, hardware and delineation as required, excavation, backfill, and disposal of surplus material.

2.12.4 (416.5) PAYMENT is replaced with the following:

2.12.4.1 The contractor will be paid for furnishing and reconstructing ET Plus end terminal sections including all related items and hardware to replace components deemed by the Engineer unsuitable for reuse, or to supplement insufficient existing quantities required for reconstruction of the various types of end terminals and for the construction of new end terminal sections. Payment will be at the contract unit prices.

2.13 SECTION 417 CRASH CUSHIONS

2.13.1 (417.1) DESCRIPTION: is replaced with the following:

2.13.1.1 The work under this section shall consist of furnishing all materials and installing new crash cushions and repairing and upgrading existing systems with damaged components at the locations shown on the project plans in accordance with these specifications.

2.13.2 (417.2) MATERIALS: is replaced with the following:

2.13.2.1 All impact attenuation devices and transition components shall be compliant to NCHRP 350 Test Level 3, published by the Federal Highway Administration or compliant with an equivalent test level of the AASHTO 2009 Manual for Assessing Safety Hardware (MASH) unless otherwise specifically approved by the Engineer. Attenuation devices shall be TRACC™ Crash Cushions as supplied by Trinity Industries, 2525 Stemmons Freeway, Dallas Texas, 75207 unless otherwise approved by the Engineer.

2.13.2.2 Manufacturer's specification and installation instructions shall be submitted to the Engineer for approval and shall be available at the worksite during installation and inspection.

2.13.2.3 The following Trinity Highway Products TRACC system shall be used for new installation of crash cushions:

2.13.2.4 Short TRACC

2.13.2.5 TRACC

2.13.2.6 Wide TRACC

2.13.2.7 Foundation of all TRACC systems will be 6" Reinforced concrete Pad as per manufacture's specification and recommendation and approved by the engineer

2.13.3 (417.3) CONSTRUCTION REQUIREMENTS: is replaced with the following:

2.13.3.1 The construction of crash cushions shall include the assembly and erection of all component parts complete at the locations shown on the project plans and in compliance with the manufacturer's specifications. Information regarding

assembly and installation of the TRACC™ attenuating crash cushions may be obtained from Trinity Highway Products LLC 1-800-722-7976.

2.13.4 (417.4) MEASUREMENT: is replaced with the following:

2.13.4.1 Measurement for reconstructing existing crash cushions and for constructing new TRACC Crash Cushions will be by each for all types and as per manufactures approved plans and accepted by the Engineer.

2.13.5 (417.5) PAYMENT: is replaced with the following:

2.13.5.1 Payment for crash cushions will be for furnishing and reconstructing existing Crash Cushion Systems and related hardware to replace components deemed by the Engineer unsuitable for reuse, or to supplement insufficient existing quantities required for reconstruction of the various types of guardrail and for the construction of new Crash Cushion Systems and related components. Payment will be at the contract unit prices

2.13.6 STANDARD DETAILS

2.13.6.1 Maricopa County DOT Standard Details 3000 series are listed below and copies attached in Exhibit 2 - 14

- 2.13.6.1.1 3001 (Exhibit 2)
- 2.13.6.1.2 3002 (Exhibit 3)
- 2.13.6.1.3 3003 (Exhibit 4)
- 2.13.6.1.4 3005 (Exhibit 5)
- 2.13.6.1.5 3006 (Exhibit 6)
- 2.13.6.1.6 3007 (Exhibit 7)
- 2.13.6.1.7 3008-1 (Exhibit 8)
- 2.13.6.1.8 3008-2 (Exhibit 9)
- 2.13.6.1.9 3008-3 (Exhibit 10)
- 2.13.6.1.10 3010-1 (Exhibit 11)
- 2.13.6.1.11 3010-1 (Exhibit 12)
- 2.13.6.1.12 3012-1 (Exhibit 13)
- 2.13.6.1.13 3016 (Exhibit 14)

2.13.6.2 For access to 2011 Supplement to the MAG uniform standard specifications and details for public work construction please refer to:  
[http://www.mcdot.maricopa.gov/technical/eng-manuals/2012\\_Suppl.pdf](http://www.mcdot.maricopa.gov/technical/eng-manuals/2012_Suppl.pdf)

2.14 USAGE REPORT:

The Contractor shall furnish the County a quarterly usage report delineating the acquisition activity governed by the Contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit.

2.15 ACCEPTANCE:

Upon successful completion of the performance period, the system shall be deemed accepted and the warranty period begins. All documentation shall be completed prior to final acceptance.

2.16 FACILITIES:

During the course of this Contract, the County shall provide the Contractor's personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its obligation enumerated herein.

2.17 INVOICES AND PAYMENTS:

2.17.1 The Contractor shall submit one (1) legible copy of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract Serial Number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity (number of days or weeks)
- Contract Item number(s)
- Description of Purchase (product or services)
- Pricing per unit of purchase
- Freight (if applicable)
- Extended price
- Mileage w/rate (if applicable)
- Arrival and completion time (if applicable)
- Total Amount Due

2.17.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.

2.17.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site ([www.maricopa.gov/finance/vendors](http://www.maricopa.gov/finance/vendors)).

2.17.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

2.18 TAX:

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

2.19 DELIVERY:

Delivery is required F.O.B. Destination, freight pre-paid within thirty (30) days of receipt of a Purchase Order, to any delivery location within Maricopa County as specified by the County. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

2.20 PICK UP:

The County shall be responsible for picking up all purchased material.

2.21 FUEL COST PRICE ADJUSTMENT:

2.21.1 This provision provides for limited increased or decreased costs of motor fuels (fuels) used to perform services under this Contract. This provision does not apply to burner

fuel (i.e. propane, natural gas, fuel oil, used motor oil). It applies to motor fuel only. Fuel cost adjustments may be either positive or negative. A positive fuel cost adjustment will result in an increase in payments to Contractor while a negative fuel cost adjustment will result in a decrease in payments to Contractor.

- 2.21.2 This provision is intended to minimize risk to both parties to this Contract due to fuel cost fluctuations that may occur during the term of this Contract. This provision is not designed to estimate actual quantities of fuel used in providing services under this Contract, but to provide a reasonable basis for calculating a fuel cost adjustment based on average conditions.
- 2.21.3 Application of this provision will come into effect upon Contractor submittal of a fuel cost adjustment request. A request may be submitted only when the increased cost of fuel, established as a percentage of total contract price (base fuel cost) upon award of this Contract, exceeds ten (10%) percent of the base fuel cost. The Contractor may request a fuel surcharge no more than four (4) times annually, during the month(s) of March, June, September and December. The request must be submitted no later than the tenth (10<sup>th</sup>) of the month. Any surcharge shall be effective the first of the following month after receipt and approval. The date of County approval of a fuel cost adjustment request shall become the base date for any future Contractor adjustment requests.
- 2.21.4 Contractor shall include, as part of its price bid, the percentage of total contract price fuel represents (e.g., fuel cost equals 10% of Contractor cost) (see also, Attachment A, Vendor Information). This percentage will represent and establish the base fuel cost for this Contract. The base fuel cost shall be established as the due date for submission of proposals for this Contract. All subsequent fuel cost adjustments shall be based upon the date the County approves a Contractor's request for fuel cost adjustment (e.g. fuel cost adjustment approved by County on January 1, 2006, January 1, 2006 becomes base date for any next Contractor request for adjustment).
- 2.21.5 Fuel Cost Application Requirement. The Contractor must provide documentation including type of motor fuel and fuel invoices with price of the fuel used in providing services under this Contract, from the month bids were due and the month of the cost adjustment request, with any fuel cost adjustment application. The fuel cost adjustment application must be completed with all applicable data, and signed by the Contractor.
- 2.21.6 The fuel surcharge shall be based on the current quarterly index of the West Coast (PADD5) Diesel (On-Highway)-All Types or Reformulated Areas Gasoline compared to the previous quarterly index period as reported on the Energy Information Administration (EIA) website: <http://www.eia.doe.gov/>
- 2.21.7 The computation of the fuel surcharge amount shall be determined as follows:
- 2.21.8 The fuel cost component from Attachment A (Vendor Information) of the Contract with Maricopa County, multiplied by the percent of change indicated by the EIA report from the previous index period.
  - 2.21.8.1 Upon agreement by the County to the surcharge, the County shall issue written approval of the change prior to any adjusted invoicing submitted for payment.
  - 2.21.8.2 The surcharge shall be added as a separate line item to the invoice.

2.22 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE):

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a

solicitation issued by the County. If you do not want to grant such access to a member of SAVE, please state so in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

2.23 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

3.0 CONTRACTUAL TERMS & CONDITIONS:

3.1 CONTRACT TERM:

This Invitation for Bid is for awarding a firm, fixed price purchasing contract to cover a three (3) year term.

3.2 OPTION TO RENEW:

The County may, at their option and with the approval of the Contractor, renew the term of this Contract up to a maximum of Three (3) additional years (or at the County's sole discretion, extend the contract on a month to month basis for a maximum of six (6) months after expiration). The Contractor shall be notified in writing by the Office of Procurement Services of the County's intention to renew the contract term at least thirty (30) calendar days prior to the expiration of the original contract term.

3.3 PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract annual anniversary date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.4 INDEMNIFICATION:

3.4.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

3.4.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

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