



PINAL COUNTY
WIDE OPEN OPPORTUNITY

PURCHASING DIVISION REPORT

December 6, 2023

CONTRACT AWARD RECOMMENDATIONS:

The Board is requested to approve the following contract awards:

1. IFB 243125 – Pinal County Adult Detention Center Pods B & C – Building System Upgrades – Recommend Low Mountain Construction, Inc. be awarded a contract in the bid amount of \$6,527,000.00. This contract will be used by the Facilities Department.
2. RFP 233028 – Oracle JD Edwards EnterpriseOne Consulting Services - Recommend contracts be awarded to the following suppliers:

CentriLogic, Inc.
Circular Edge, LLC
ERP-One Consulting Inc.
Sabuja Inc.

The initial one year term of the contract begins December 6, 2023 with four (4) optional one-year extensions. This contract will be used by the Information Technology Department.

CONTRACT AMENDMENTS:

The Board is requested to approve the following contract amendments:

1. RFP 170223 – Inmate Telephone Services - Recommended approval of Amendment No. 7 to exercise the optional extension period from December 7, 2023 through April 30, 2024 with Securus Technologies. There is one (1) additional three-month extension remaining. This contract is used by the Sheriff's Office.
2. RFP 170322 – Inmate Tablet Program - Recommended approval of Amendment No. 6 to exercise the optional extension period from December 7, 2023 through April 30, 2024 with Securus Technologies. There is one (1) additional three-month extension remaining. This contract is used by the Sheriff's Office.
3. RFP 170423 – Video Visitation - Recommended approval of Amendment No. 6 to exercise the optional extension period from December 7, 2023 through April 30, 2024 with Securus Technologies. There is one (1) additional three-month extension remaining. This contract is used by the Sheriff's Office.



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4. RFP 202725 – Court Ordered Evaluation Services - Recommended approval of Amendment No. 3 to exercise the optional extension period from December 16, 2023 through December 15, 2024 with the following suppliers:

Community Bridges Inc.
Sonora Behavioral Health

There is one (1) optional extension remaining. This contract is used by the Public Fiduciary's Office.

CONTRACT CANCELLATION:

The Board is hereby notified of the following contract cancellation per Pinal County Procurement Code section PC1-905 governing solicitation protests:

1. RFP 231228 Inmate Communications – with Global Tel*Link d/b/a ViaPath Technologies.

COMPETITION IMPRACTICABLE PROCUREMENT OVER \$100,000:

The Board is requested to approve the following purchase request per Pinal County Procurement Code section PC1-350 governing competition impracticable purchases over \$100,000:

AMOUNT: \$250,000.00
SUPPLIER: McKesson
DESCRIPTION: Covid-19 Vaccine
DEPARTMENT(S): Public Health

COOPERATIVE PURCHASING AGREEMENT PROCUREMENTS OVER \$250,000:

The Board is requested to approve the following cooperative purchase(s):

REQUISITION NO.: 169032
SUPPLIER: Lloyd Construction Co., Inc
AMOUNT: \$1,187,025.33
ITEM(S): Oracle Park Redevelopment
DEPARTMENT(S): Development Services



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To: Pinal County Board of Supervisors

From: Lorina Gillette, Procurement Officer

Date: December 6, 2023

Re: Contract Award of IFB #243125 Pinal County Adult Detention Center Pods B & C – Building System Upgrades

Background

Invitation for Bid 243125 was published to solicit bids from qualified contractors to provide building system upgrades for the Pinal County Sheriff’s Office. Two bids were opened and read on October 11, 2023 at 2:05 P.M. Both bids were deemed responsive and responsible.

Submitted Bids

Bidder	Total Bid Amount
Low Mountain Construction, Inc.	\$ 6,527,000.00
Danson Construction, LLC	\$ 6,848,900.00

Engineer’s Estimate \$5,271,963.00

Recommendation

I have referenced the Arizona Registrar of Contractors on October 11, 2023 for the Arizona Commercial Contractor’s License No. ROC 094132. This number is issued to Low Mountain Construction Inc. and is current and active.

After review and based on the previous information, it is determined that Low Mountain Construction, Inc. is the lowest responsive and responsible bidder. It is recommended that the contract be awarded to Low Mountain Construction, Inc. for the Total Bid Price of \$6,527,000.00.

The Board is also requested to authorize the Director of the Office of Budget and Finance to approve and sign any resulting administrative documents.

Any questions regarding the outcome of this solicitation or resultant contract may be directed to Lorina Gillette, Procurement Officer.

Leo Lew
County Manager



Himanshu Patel
Deputy County Manager

Angeline Woods
Office of Budget & Finance Director

PINAL COUNTY
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MaryEllen Sheppard
Deputy County Manager

Respectfully submitted,

Lorina Gillette

Lorina Gillette, CPPB
Procurement Officer
(520) 866- 6262
Lorina.Gillette@pinal.gov



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Contract Agreement

Pinal County
Finance Department
31 N. Pinal St.
Bldg. A
P.O. Box 1348
Florence, AZ 85132

Contract No. **243125IFB**
Project No. **53330117**

CONTRACT AGREEMENT

This Contract is made and entered into this 6th day of December 2023, by and between PINAL COUNTY, a political subdivision of the State of Arizona, hereinafter referred to as "Pinal" and Low Mountain Construction, Inc. a(n) Arizona corporation / partnership / sole proprietorship, hereinafter referred to as "Contractor".

WHEREAS, Pinal has the authority to enter into this Contract under A.R.S. §11-251; and

WHEREAS, bids have been received by Pinal and the Contract has been awarded to the above named Contractor, and said Contractor is willing and able to perform said construction in accordance with this Contract.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises herein stated, the parties hereto agree as follows:

1. **Contract Documents.** The following list of instruments, drawings and documents, which are attached hereto, are incorporated herein by reference, and taken together with this instruction, constitutes the Contract between the parties hereto. Any reference to "Contract" or "Contract Documents" means this instrument and the documents listed below:

<ol style="list-style-type: none"> a. Invitation for Bids b. Instructions to Bidders c. Bid, including Bid Form(s) d. General Provisions e. Contractors Performance Evaluation Form and Definitions f. Special Provisions and Specifications g. Technical Provisions and Specifications, including Schedule 	<ol style="list-style-type: none"> h. Certification of Intentions Concerning Subcontracting i. Affidavit of Suspension and/or Debarment j. Contractor Immigration Certifications k. Noncollusion Affidavit l. Contract Agreement m. Plans n. All addenda issued prior to date for receipt of bids set forth in the Invitation for bids
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2. **Scope of Work ("Work").** Contractor shall fully perform the Scope of Work as set forth in the Contract Documents.
3. **Commencement and Completion Dates.** The project shall be completed within **365 calendar days** unless further extended or renewed by mutual consent by Pinal and the Contractor. Pinal assumes no liability for work performed or costs incurred on the Project prior to the commencement date or subsequent to the contract completion date or the termination of this Contract. Extensions of time allowed for completing the Work on the Project may be granted under appropriate circumstances.
4. **Compensation / Contract Price.** Pinal agrees to pay Contractor for work actually performed by contractor based on the price set forth and Contractor agrees to accept such amounts for work actually performed for the lump sum amount _____ Six million, five hundred twenty seven thousand dollars.

 (\$ 6,527,000.00).
5. **Installment / Progress Payments.** Pinal may pay Contractor in installments based upon periodic invoices and progress reports and a final invoice and report upon completion of Work submitted by Contractor. The invoices and progress reports shall show percentage of Work completed under this Contract. It is understood and agreed, however, that payment to Contractor of installment payments shall not be construed as a waiver by Pinal of any of its rights herein or of any claims Pinal may have



against Contractor under this Contract. Periodic invoices and progress reports submitted by Contractor require verification by Pinal and approval or rejection by Pinal within thirty (30) days of receipt of invoice. Installment payments shall be made no later than fifteen (15) days after Pinal's approval.

- 6. **Retention.** Pinal shall retain ten percent (10%) of the compensation billed periodically by Contractor as shown on each periodic invoice and progress report. After the contract is fifty percent complete no more than five percent (5%) of the amount of any subsequent progress payments made under the contract may be retained provided the contractor is making satisfactory progress on the project.
- 7. **Final Payment.** Final payment, including retentions, shall be made within thirty (30) days after receipt of final invoice from Contractor, conditioned upon the following:
 - 7.1 Contractor's compliance with all the terms of the Contract;
 - 7.2 Contractor having satisfactorily completed the Scope of Work described in the "Invitation for Bid" according to the standards, specifications and plans and within the time periods required under this Contract;
 - 7.3 The Work, including materials, being approved and accepted by Pinal, with such approval and acceptance by Pinal not being unreasonably withheld;
 - 7.4 Contractor furnishing Pinal with notarized receipts and waives of liens for all labor, materials and supplies from all subcontractors, material suppliers and any and all persons holding claims against the Work as set forth in the paragraph entitled "Liens" in the General Provisions of the Contract Documents.
- 8. **No Third Party Benefit.** Nothing in this Contract shall be construed to give any person other than Pinal and Contractor any legal or equitable right, remedy or claim under this Contract. This contract shall be held to be for the sole and exclusive benefit of Pinal and Contractor.
- 9. **Headings.** The headings for the paragraphs of this Contract are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs nor in any way affect this Contract.
- 10. **Governing Law.** The validity, interpretation, performance and enforcement of this Contract shall be governed by and construed in accordance with the laws of the State of Arizona.
- 11. **Venue.** Notwithstanding A.R.S. §12-408, venue for any suit or action arising under this Contract shall be commenced and remain in the Superior Court of the State of Arizona in and for the County of Pinal, Florence, Arizona, but only after exhausting all possible administrative remedies. The parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.
- 12. **Severability.** The parts, terms and provision of this Contract, consisting of the Contract Documents as defined under the definitions of General Provisions and Specifications, shall be deemed severable and should any part, term or provision of this Contract be declared or be determined by a Court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be deemed a part of this Contract, notwithstanding any other provision of this Contract to the county.



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Contract Agreement

Pinal County
Finance Department
31 N. Pinal St.
Bldg. A
P.O. Box 1348
Florence, AZ 85132

13. Successors and Assigns. The Contractor and all successors, executors, administrators and assigns of Contractor's interest in the Work or the compensation herein provided shall be bound to Pinal to the full legal extent to which Contractor is bound with respect to each of the covenants of this Contract.
14. Authorization. Signor executing this Contract on behalf of Contractor represents and warrants that said signor is duly authorized to execute and deliver this Contract on behalf of Contractor and this Contract is binding upon said Contractor.
15. Entire Contract. This Contract contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings, inducements and conditions, express or implied, oral or written, except as herein contained and no statement, promise or inducement made by either party or the agent of either party that is not contained in this written Contract shall be valid or binding. All the amendments and modifications to this Contract shall be in writing signed by both parties to this Contract.
16. Cancellation of Contract. This Contract is subject to cancellation by Pinal without further penalty or further obligation as provided in A.R.S. §38-511.
17. Contractor's Execution. Execution of the Contract by Contractor is a representation that the Contract Documents enable Contractor to: (a) determine the cost of the Work; (b) perform the Work outlined therein; and (c) to fulfill all its obligations hereunder.
18. Effective Date. This Contract shall become effective and binding upon (a) the submission by Contractor and acceptance by Pinal of the necessary Contract Bonds; (b) the submission by Contractor and acceptance by Pinal of the Certificates of Insurance; submission of the name of Contractor's representative to be contacted in order to report claims for property/vehicle damage and (c) upon the execution of this instrument by both parties hereto.



To: Pinal County Board of Supervisors
From: Tiara Peterson, Purchasing Manager
Date: December 6, 2023
Re: Contract Award of RFP #233028 Oracle JD Edwards EnterpriseOne Consulting Services

Background

Request for Proposal 233028 was published to solicit proposals from qualified suppliers to provide consulting services for the County's JD Edwards EnterpriseOne system for the Information Technology Department.

Selection Process

Fifteen (15) proposals were received and opened on May 30, 2023, at 2:15 p.m., and all of the proposals were deemed responsive and responsible and were evaluated by a six-person committee. Proposals were scored on Capacity of the Responder, Method of Approach, Cost, References, Conformance to Terms and Conditions, and Statement of Work and Technology Security Risk Assessment. A summary of the evaluation scores for each Responder is included in the attached Evaluation and Award Determination.

Responders:

- | | |
|-------------------------------------|--|
| CentriLogic, Inc. | Global Systems Integration |
| Circular Edge, LLC | iAM HCM Consulting |
| Corning Data International | iKW Solutions Inc. |
| Cyret Technologies Inc | MSS Technologies LLC |
| Denovo Ventures, LLC | Rite Software Solutions & Services LLC |
| Enterprise Technology Services, LLC | Sabuja Inc |
| EPIQ Info Tech LLC | Spinnaker Support |
| ERP-One Consulting Inc. | |

Recommendation

After review and scoring of the proposals by the evaluation committee, it is recommended that the Board of Supervisors approve the award of contract 233028 Oracle JD Edwards EnterpriseOne Consulting Services to CentriLogic, Inc., Circular Edge, LLC, ERP-One Consulting Inc., and Sabuja Inc. The term of the proposed contract is an initial one (1) year term beginning December 6, 2023 through December 5, 2024 with four (4) one-year optional extensions. The estimated cost to the County for the initial contract term is \$180,000.00.

The Board is also requested to authorize the Office of Budget and Finance Director to approve and sign any resulting administrative documents.

Any questions regarding the outcome of this solicitation or resultant contract may be directed to Tiara Peterson, Purchasing Manager.

Leo Lew
County Manager



PINAL COUNTY
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Himanshu Patel
Deputy County Manager

Angeline Woods
Office of Budget & Finance Director

MaryEllen Sheppard
Deputy County Manager

Respectfully submitted,

Tiara Peterson

Tiara Peterson, MBA, CPPB
Purchasing Manager
(520) 866-6240
Tiara.Peterson@pinal.gov

Attachment: Evaluation and Award Determination



December 6, 2023

RFP 233028 Oracle JD Edwards EnterpriseOne Consulting Services
Evaluation and Award Determination

In accordance with the Pinal County Procurement Code, CentriLogic, Inc., Circular Edge, LLC, ERP-One Consulting Inc., and Sabuja Inc have been determined to be the most advantageous to the County based on the evaluation criteria set forth in the solicitation.

Score Tabulation

	Total	Capacity of Responder	Method of Approach	Cost	Conformance	Application Experience	References	Company Technology Risk Assessment
Supplier	/ 1,000.00 pts	/ 300 pts	/ 250 pts	/ 200 pts	/ 100 pts	/ 100 pts	/ 50 pts	Pass/Fail
Enterprise Technology Services, LLC	754.62 pts	235 pts	189.29 pts	117.95 pts	100 pts	82.38 pts	30 pts	Fail
CentriLogic Inc	734.91 pts	235 pts	175 pts	110.51 pts	100 pts	74.4 pts	40 pts	Pass
ERP-One Consulting Inc.	730.9 pts	235 pts	196.43 pts	115.72 pts	82.5 pts	71.25 pts	30 pts	Pass
Circular Edge, LLC	723.99 pts	220 pts	182.14 pts	128.45 pts	100 pts	73.4 pts	20 pts	Pass
Sabuja Inc	723.45 pts	190 pts	175 pts	200 pts	100 pts	43.45 pts	15 pts	Pass
iAM HCM Consulting	723.13 pts	221.67 pts	196.43 pts	104.84 pts	100 pts	70.19 pts	30 pts	Fail
Cyret Technologies Inc	711.04 pts	200 pts	164.29 pts	190.67 pts	100 pts	56.08 pts	0 pts	Fail
MSS Technologies LLC	700.5 pts	233.33 pts	164.29 pts	107.6 pts	100 pts	65.28 pts	30 pts	Fail



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	Total	Capacity of Responder	Method of Approach	Cost	Conformance	Application Experience	References	Company Technology Risk Assessment
Supplier	/ 1,000.00 pts	/ 300 pts	/ 250 pts	/ 200 pts	/ 100 pts	/ 100 pts	/ 50 pts	Pass/Fail
Global Systems Integration	690.77 pts	221.67 pts	167.86 pts	116.83 pts	100 pts	64.41 pts	20 pts	Fail
iKW Solutions Inc.	684.98 pts	223.33 pts	150 pts	117.95 pts	100 pts	68.7 pts	25 pts	Fail
EPIQ InfoTech LLC	678.18 pts	208.33 pts	171.43 pts	131.9 pts	100 pts	41.52 pts	25 pts	Pass
Corning Data International	631 pts	206.67 pts	171.43 pts	112.33 pts	77.48 pts	63.09 pts	0 pts	Fail
Denovo Ventures, LLC	615 pts	211.67 pts	160.71 pts	107.6 pts	50 pts	70.02 pts	15 pts	Pass
Rite Software Solutions & Services LLC	592.65 pts	156.67 pts	107.14 pts	169.43 pts	100 pts	44.41 pts	15 pts	Pass
Spinnaker Support	582.83 pts	175 pts	117.86 pts	161.97 pts	72.53 pts	55.47 pts	0 pts	Pass

Any questions regarding the outcome of this solicitation or resultant contract may be directed to the Purchasing Manager, Tiara Peterson.

Tiara Peterson, MBA, CPPB
Purchasing Manager
(520) 866-6240
Tiara.Peterson@pinal.gov

Contract 233028RFP
Oracle JD Edwards EnterpriseOne Consulting Services

THIS CONTRACT is entered into by and between Pinal County, ("County"), whose primary address is 31 N. Pinal St., Bldg. A., Florence, AZ 85132 and Centrilogic, Inc., ("Contractor"), whose primary address is 28 Mansfield Street, Rochester, NY 14606.

1. **CONTRACT TERM.** The resultant contract term will commence upon contract execution, and will continue for one (1) year unless canceled, terminated, renewed, or permissibly extended. The County has no obligation to extend or renew the contract past the initial term.
2. **CONTRACT EXTENSION.** The County, at its sole discretion, shall have the option to extend the term of this contract up to a maximum of four (4) additional one-year terms, or at the County's sole discretion, extend the contract on a month to month basis for a maximum of nine (9) months after expiration.
3. **CONTRACT TYPE.**

Contracted Labor Rates. The contracted labor rates are the fully-burdened and marked-up billing rates for Contractor's labor scheduled in the requested Pricing Document (Attachment B-7), which rates are deemed to be inclusive of the actual gross wages plus all applicable payroll taxes, non-payroll employer burden, workers' compensation contributions and health and welfare benefit contributions; retirement or other pension contributions, vacation, sick time or other paid leave allowances and the like; all required home office support, corporate or subordinate licenses or registrations, corporate insurance, professional association fees, advertising, time and travel by any of Contractor's personnel other than billable personnel and any bonuses or other incentives for all personnel (including billable personnel); all insurance coverages to be provided by Contractor under the contract; and profit.

4. **PRICING**

4.1 Most Favored Customer Pricing.

Contractor warrants that, for the term of the contract, the prices, rates, discounts, terms, and benefits set out in the proposal, including any subsequent agreed upon amendment to it, will be equal to or better than the lowest prices, best rates, largest discounts, and most favorable terms and benefits, both separately and in combination, at which Contractor sells equivalent items. If Contractor provides more favorable pricing, rates, discounts, terms and benefits to any customer, it shall immediately apply all such pricing, rates, discounts, terms and benefits to pending County purchase orders and offer such pricing, rates, discounts, terms and benefits for all future purchases made by the County.

4.2 All-Inclusive Pricing.

Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's proposal as accepted by the County. Details of service not explicitly stated in the Scope of Work or in Contractor's proposal, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and



profit and any other costs toward the accomplishment of the requirements in the contract are included in the pricing provided.

4.3 Price Reductions and Sales Promotions.

Price reductions may be submitted to or requested by the County for consideration at any time during the life of the contract. Promotions or reductions to sell existing inventory/stock and to include special manufacturer assistance are allowable.

4.4 Price Increase.

The Procurement Officer may review a fully documented request for a rate increase only after the contract has been in effect for two (2) years. Any requested rate increase(s) shall be based on an unmitigatable cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the cost of the goods or services contractually covered.

Any request for rate increase will only be considered at the time of a contract extension and must be submitted ninety (90) days prior to the adjustment. Any request for rate increase shall be a factor in the extension review process and if approved, be implemented by a formal contract change order. The County will have the right to request and receive additional information, statistics, financial records etc., and to direct the content, form, and format of presentation as it deems necessary to validate the Contractor's request for a rate adjustment. Failure to respond to the County's request within the time frames specified will nullify the Contractor's request. The County will determine whether the requested rate increase or alternate option is in its best interest and adjustments will be subject to availability of monies appropriated, if applicable.

4.5 Delivery.

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery costs and unloading at the destination.

4.6 Change Orders.

In the event the County requires any change(s) to the Scope of Work and the Contractor anticipates that the project's approved price may be exceeded as a result of the change, the Contractor shall submit a revised project cost estimate to the requesting department.

The Contractor shall not exceed an approved project's price without written preapproval by the requesting department. If preapproval is not received, the Contractor may be subject to sanctions. The revised project price proposal shall include the following:

- a. Changes and/or adjustments caused by the County's change to the Scope of Work for the project, including any adjustments to timeframes for completion of the project.
- b. An all-inclusive project price estimate, supported by a detailed cost breakdown to include all costs required to complete the project, as changed by the County.

4.7 Travel. N/A

5. INVOICING AND PAYMENTS.

5.1 Invoices.

The Contractor shall submit detailed, itemized monthly invoices before payment(s) can be made. Incomplete invoices will not be processed and will be rejected. All invoices shall reflect the contracted prices or rates for goods or services as described in the Scope of Work. At a minimum, the invoice must provide the following information:

- a. Company name, address and contact
- b. County bill-to name and contact information
- c. Contract Number
- d. County purchase order number
- e. Invoice number and date
- f. Payment terms
- g. Itemized service price as outlined in the Price Sheet (Attachment B-7)

Problems regarding billing or invoicing shall be directed to the using department as listed on the Purchase Order. All invoices must be submitted to the following e-mail or postal address:

Pinal County Finance Department
Attn: Accounts Payable
PO Box 1348
Florence, AZ 85132
financeinvoices@pinal.gov

5.2 Milestones and Retainage.

N/A

5.3 No Invoice Without Authorization. Contractor shall not seek payment for any:

- a. Charges or fees not delineated in the contract.
- b. Materials or services that have not been authorized on a purchase order.
- c. Expediting, overtime, premiums, or upcharges absent the County's express written prior approval.
- d. Materials or services that are the subject of a contract amendment or change order that has not been fully signed.

5.4 Timeliness of Invoice. By A.R.S. § 11-622, all invoices must be submitted to the County within six (6) months after service or product is received. Failure to submit an invoice within this period of time will result in non-payment.

5.5 Payments. No payment shall be issued prior to receipt of acceptable goods and/or services and a correct invoice. The County shall make every effort to process payment for acceptable goods or services within thirty (30) calendar days after receipt of said items/services and a correct invoice.

- 5.6 Payments Only to Contractor. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, the County will only make payment to Contractor under the federal tax identifier indicated on the accepted offer.
- 5.7 Payments to Subcontractors. Contractor shall make payment of all undisputed amounts due to Subcontractors, as applicable to their services, within thirty (30) days of receipt of funds from the County.
- 5.8 Availability of Funds. By A.R.S. § 35-154, every County payment obligation under the contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the contract, the County may terminate the contract at the end of the period for which funds are available, or, at County's discretion, allow appropriate amendment to the contract. No liability will accrue to County if it exercises the foregoing right or discretion, and County will have no obligation or liability for any future payments or for any damages as a result of having exercised it.
6. ARIZONA LAW. This contract shall be governed by the law of the State of Arizona and suits pertaining to this contract shall be brought only in the Pinal County Superior Court, Florence, Arizona.
7. IMPLIED LAW. Each provision of law and any terms required by law to be in this contract shall be deemed an integrated part of this contract as if fully stated herein.
8. PUBLIC RECORD. This contract is a public record and must be retained by the County for a minimum of six (6) years. All contracts are open to public inspection after contract award, except for any portions determined to be confidential by the County.
9. CONTRACT ORDER OF PRECEDENCE. All of the documents forming the contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the work as though the relevant work, requirements, obligations, or duties had been fully described on all, consistent with the other documents forming the contract and as is reasonably inferable from them as being necessary to produce complete results. In case of any inconsistency, conflict, or ambiguity among the documents forming the contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.
- a. Written Contract Amendments
 - b. Contract
 - c. Contract Exhibit(s) A (i.e. Contracted Scope of Work)
 - d. Contract Exhibit(s) B (i.e. Contract Pricing Documents)
 - e. Contract Exhibit(s) C (i.e. Responder's Proposal Documents)
 - f. Other Contract Exhibits
 - g. Orders, in reverse chronological order
10. RELATIONSHIP OF THE PARTIES. The Contractor under this contract is an independent Contractor and shall act in an independent capacity in performance under the contract. Neither party is or is to be construed as being an

employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

- 11. SEVERABILITY. Any term or condition deemed or found illegal or invalid is thereby stricken from the contract and shall not affect any other term or condition of the contract.
- 12. NO PAROLE EVIDENCE. The contract, including any documents incorporated into the contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the contract.
- 13. NO WAIVER. Either party’s failure to insist on strict performance of any term or condition of the contract is not, or will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of right of, enforcement of any term or condition.
- 14. CONTRACT ADMINISTRATION AND OPERATION.

14.1 Notices and Correspondence. Notices required by this Contract shall be made to the following addresses:

County	Contractor
Name: Pinal County Purchasing Division Attn: Tiara Peterson	Name: Centrilogic, Inc. Attn: John Tunney
Address: PO Box 1348 Florence, AZ 85132	Address: 28 Mansfield Street Rochester, NY 14606
Title: Purchasing Manager	Title: Senior Account Executive
Email: Purchasing@Pinal.gov	Email: jtuney@centrilogic.com

An authorized County representative and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the contract shall not be necessary.

14.2 Click-Through Terms and Conditions. If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the contract (each an “Electronic Ordering System”), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of the County do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the contract. Accordingly, where an authorized County user is required to “click through” or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation and non-binding upon the County. Additionally, where an authorized County user is required to accept or be made subject to any terms and conditions in accessing or employing any materials or services, those terms and conditions will also be void and non-binding.

- 14.3 Books and Records. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each of its Subcontractor to retain books and records *relating for any cost and pricing data submitted* in satisfaction of § 41-2543 for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records *relating to performance under the contract* for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Accordingly, Contractor or Subcontractor shall either make all such books and records available to the County at all reasonable times or produce the records at a designated County office on the County's demand, the choice of which being at the County's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. The Contractor and/or Subcontractor shall produce the requested records within the prescribed statutory timeframe or within fourteen (14) days which ever is longer.
- 14.4 Contractor Licenses. Contractor and Subcontractor(s) shall maintain in current status all federal, state, and local licenses and permits required for the operation of its business in general, for its operations under the contract, and if required by this contract, the work itself.
- 14.5 Inspection and Testing. Per A.R.S. § 41-2547, the County may at reasonable times inspect the part of Contractor's or Subcontractors' plant(s) or places of business related to performance under the contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. The County may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the contract or that will be incorporated into something to be supplied under the contract. If the inspection or testing shows non-conformance or defects, the Contractor will owe the County reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by the County of those items.
- 14.6 Acceptance of Work.
- a. Materials. The County has the right to make acceptance of materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. The County may apply as acceptance criteria conformity to the contract, workmanship and quality, whether the constituent materials used are correct, and any other matter for which the contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected materials from the delivery location, or from any immediate locations to which it might have been reasonably necessary to move it, then inspect it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. The County will not owe Contractor any payment for rejected materials, and the County may, at its discretion, withhold or make partial payment for any rejected materials that have been returned to Contractor in those instances where the County has agreed to permit repair instead of demanding

replacement. In the case that materials are accepted and then later deemed to not conform to the acceptance criteria of the contract the Contractor shall provided either a credit for the non-conforming materials or provided conforming materials at no additional cost to the County within a reasonable timeframe.

- b. Services. The County has the right to make acceptance of services subject to acceptance criteria. The County may apply as acceptance criteria conformity to the contract, accuracy, completeness, or other indicators of quality, or any other matter for which the contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. The County will not owe Contractor any payment for un-accepted services; and the County may, at its discretion, withhold or make partial payment for any rejected services if Contractor is still in the process of re-performing or otherwise curing the grounds for the County's rejection.

14.7 Ownership of Intellectual Property.

- a. Rights in Work Product. Unless otherwise noted in the terms and conditions of this contract, all intellectual property originated or prepared by Contractor pursuant to the contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the contract, shall be considered work product and shall be the exclusive property of Contractor, provided that County has Government Purpose Rights to that work product as and when it was delivered to County.
 - (1) "Government Purpose Rights" are: (i) the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which the County is a party; (ii) the right to release or disclose that work product to third parties for any County purpose; and (iii) the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any County purpose; such recipients being understood to include the federal government, the state government, and various local governments.
 - (2) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.
- b. Joint Developments. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
- c. Pre-Existing Material. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the contract or applicable purchase orders are not

part of the work product to which rights are granted as stated above, and will remain the exclusive property of Contractor, provided that:

- (1) Any derivative works of such pre-existing material or elements thereof that are created pursuant to the contract are part of that work product;
- (2) Any elements of derivative work of such pre-existing material that was not created pursuant to the contract are not part of that work product; and
- (3) Except as expressly stated otherwise in the contract, nothing in the contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

d. **Developments Outside of Contract.** Unless expressly stated otherwise in the Terms and Conditions, the contract does not preclude Contractor from developing competing materials outside the contract, irrespective of any similarity to materials delivered or to be delivered to the County hereunder.

- 14.8 **Subcontracts.** The Contractor shall not enter into any subcontract under this contract for the performance of this contract without the advance written notice to the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. It is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees or agents of the Contractor and not the County. Nothing contained in any contract or joint venture agreement shall create any contractual relationships between any subcontractor and County, nor shall the same create any obligation on the part of the County to pay any subcontractor. The subcontract shall incorporate by reference the terms and conditions of this contract.
- 14.9 **Non-Discrimination.** Contractor shall comply with the State of Arizona Executive Order No. 2009-09 and all other applicable federal, state and local laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.
- 14.10 **E-Verify Requirements.** As required by A.R.S. § 41-4401, Contractor and each subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each subcontractor acknowledge that under A.R.S. § 41-4401, the County retains the legal right to inspect the papers of any Contractor or subcontractor employee who works under the contract to ensure that Contractor or subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- 14.11 **Offshore Performance of Certain Work Prohibited.** Any services that are described in the specifications or Scope of Work that directly serve the County or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services, services performed through remote access to the County network, or services that are incidental to the performance of the contract. This provision applies to work performed by Subcontractors at all tiers. Responders shall declare all anticipated offshore services in the proposal.

- 14.12 Estimated Quantities. Unless expressly stated otherwise in the solicitation, the (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on orders; (b) County makes no commitment of any kind concerning the quantity or monetary value of activity, work or services actually initiated or completed during the term of the contract; (c) Contractor shall only deliver or perform as authorized by orders; and (d) County is not limited as to the number of orders it may issue for the contract.
- 14.13 Non-Exclusivity. This contract is entered into with the understanding and agreement that it is for the sole convenience of Pinal County. The County reserves the right to obtain like materials or services from another source when necessary without penalty or obligation. The County reserves the right to make additional awards by aggregate, line item, regional area, or any other division of goods and services as determined to be in the best interest of the County.
- 14.14 Additions and Deletions to Contract. The County reserves the right to add and/or delete goods or services to the Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required for a contract, prices for such additions will be negotiated between the Contractor and the County.
- 14.15 Applicable Taxes. The Contractor shall be responsible for paying all applicable taxes. Pinal County is subject to all applicable state and local transaction privilege taxes. The County is exempt from certain federal excise tax on manufactured goods. The County will provide the necessary exemption certificates as evidence. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with County unless not required by law.
- 14.16 Eligible Agencies. This contract shall be for the exclusive use of Pinal County.
- 14.17 Transitions. During commencement of the contract the Contractor shall attend transition meetings with outgoing suppliers as requested by the County to coordinate efforts, ease the transition, and minimize disruption in the County's operations. The County may elect to have outgoing suppliers complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible, even if that scope is covered under the contract with the new supplier. Conversely, the County anticipates having a continued need for the same materials and services upon expiration or earlier termination of the contract. Accordingly, Contractor shall work closely with any new (incoming) supplier and the County to ensure a smooth and complete transfer. The County's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both the existing Contractor and the incoming supplier. During the outgoing transition, the County may elect to have the outgoing Contractor complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible.

- 14.18 Other Contractors. The County may undertake with its own resources or through award of other contracts to the same or other suppliers, additional or related work. In such cases, the Contractor shall cooperate fully with the County’s employees and other suppliers and carefully fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the contract requires handing-off Contractor’s work to others, Contractor shall cooperate as the County instructs regarding the necessary transfer of its work product, services, or records to the County or the other suppliers. Contractor shall not commit or permit any act that interferes with the County’s or other suppliers’ performance of their work, provided that, the County shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 14.19 Work on County Premises.
- a. Compliance with Rules. Contractor is responsible for ensuring that its personnel comply with County’s rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing materials or performing services on County grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the contract. Contractor is reminded that violation under Pinal County Security policy 2.10 to possess a firearm, ammunition, or an explosive device in a County building is a material breach of contract and grounds for termination for default.
 - b. Protection of Facilities and Grounds. Contractor shall deliver or install the materials and perform the services without damaging any County facilities or grounds. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions the County needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, the County will be entitled to exercise its remedies under paragraph 17.5 “Right to Offset.”
- 14.20 Advertising, Publishing, and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this contract without the prior written approval of the Procurement Officer.
- 14.21 Israel Boycott Prohibited. **Pursuant to A.R.S. § 35-393.01(A) and to the extent allowable by law,** if the Contractor engages in for-profit activity and has ten (10) or more employees, and if this agreement has a value of \$100,000 or more, the Contractor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
- 14.22 Use of Forced Labor of Ethnic Uyghurs Prohibited. Pursuant to A.R.S. § 35-394, the use of forced labor, any goods produced by forced labor or contractors or subcontractors that utilize the forced labor of Ethnic Uyghurs in the People’s Republic of China is prohibited. Written certification that the contractor complies with this provision shall be submitted to the County. If written certification has been submitted, and the

contractor later determines that it is not in compliance with this provision, it shall notify the County within five (5) business days. If the County does not receive notification that within one hundred and eighty (180) days of finding the violation, the company has remedied the violation of this section, the contract will terminate. If the contract naturally or otherwise terminates before the end of the one hundred and eighty (180) day remedy period, the contract terminates on the contract termination date.

15. CONTRACT CHANGES.

- 15.1 Contract Amendments. The contract is issued under the authority of the Pinal County Board of Supervisors. Only a contract amendment can modify the contract and then only if it does not change the contract's general scope. Purported changes to the contract by a person not expressly authorized by the Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the contract based on any such purported changes.
- 15.2 Signing of Contract Amendments. Contractor's counter-signature (or "approval") of contract modifications is not required to give effect if the contract amendment only covers either:
- a. Extension of the term of the contract within the maximum aggregate term;
 - b. Revision to Procurement Officer appointment or contact information; or
 - c. Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the contract.

In every case other than those listed in a, b, and c above, both parties' signature (or "approval") of a contract modification is required to give it effect.

- 15.3 Assignment and Delegation. Contractor shall not assign in whole its rights or delegate in whole its duties under the contract without the Procurement Officer's prior written consent, which consent the Procurement Officer may withhold at his or her discretion. The Procurement Officer shall not unreasonably withhold approval of assignment or delegation. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving County satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when County first awarded it the contract. This contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto.

16. RISKS AND LIABILITIES

- 16.1 Risk of Loss. Contractor bears all risk of loss to materials while in pre-production, production, storage transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the Scope of the Work, until they have been received and accepted as conforming by the County at the location designated in the purchase order or contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.



16.2 Contractor Insurance. The Contractor and any tier of Subcontractor shall purchase and maintain insurance, until all of their obligations have been discharged including any warranty periods under this contract, against claims for injury to persons or damage to property which may arise from or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees, or Subcontractors. Failure to do so may, at the sole discretion of the County, constitute a material breach of the contract.

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

a. Minimum Scope and Limits of Insurance. Contractor shall purchase and maintain coverage with coverages and limits of liability not less than those stated below.

(1) Commercial General Liability (CGL). Commercial General Liability (CGL) Insurance (CG 0001) and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 General Aggregate Limit, and \$2,000,000 Completed Operations/Products Aggregate. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. The additional insured endorsement shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor's work or service.

(2) Automobile Liability. Commercial/Business Automobile Liability insurance with a combined single limit (CSL) for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this contract.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor, and shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by

the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor’s work or service.

(3) Workers’ Compensation and Employer’s Liability.

Workers’ Compensation Employer’s Liability	Statutory
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Policy shall contain a waiver of subrogation against Pinal County and its officers, officials, agents, and employees for losses arising from work or service performed by or on behalf of the Contractor. This requirement shall not apply to each Contractor this is exempt under A.R.S. 23-902 (E), and when such Contractor executes the appropriate sole proprietor waiver form.

(4) Professional Errors and Omissions Liability. Coverage shall be for minimum amounts of \$2,000,000 per claim and \$5,000,000 annual aggregate.

(5) Technology or Cyber Liability. Technology or Cyber Liability insurance with a minimum of \$2,000,000 per claim and \$5,000,000 aggregate. Insurance shall include coverage for cloud computing and mobile devices, protection of private or confidential information, network security and privacy, liability for system attacks, digital asset loss, denial or loss of service, unauthorized access and use, as well as introduction, implantation or spread of malicious software code.

b. Additional Insurance Requirements. The policies shall include, or be endorsed to include the following provisions:

(1) The Contractor’s policies, as applicable, shall be primary and non contributory to insurance or self-insurance carried by the County, it’s agents, officials, or employees.

(2) Insurance provided by the Contractor shall not limit the Contractor’s liability assumed under the indemnification provisions of this contract.

c. Notice of Cancellation. Applicable to all insurance policies required within the insurance requirements of this contract, Contractor’s insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the County.

d. Acceptability of Insurers. Contractor shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best rating of not less than A-6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of

Arizona, provided that said insurance companies meet the approval of the County. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

- e. **Verification of Coverage.** Contractor shall furnish the County with certificates of insurance or formal endorsements as required by the contract at least fourteen (14) calendar days prior to commencing work or services under the contract. Such certificates shall identify this contract number and project description and shall be sent directly to the attention of Pinal County Purchasing Department. In the event any insurance policy(ies) required by this contract are written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Contractor’s work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life of the contract, a renewal certificate must be sent to the County a minimum of fourteen (14) calendar days prior to the expiration date. The form of any insurance policies, limits, endorsements and forms must be acceptable to the County. The County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County’s right to insist on strict fulfillment of Contractor’s obligations under this Contract.
- f. **Subcontractors.** All coverages for all tiers of Subcontractors shall be subject to the minimum insurance requirements identified above. The County reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its Subcontractors have the required coverage.
- g. **Approval and Modifications.** The County 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.

16.3 **Basic Indemnification.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County indemnitees from indemnified basic claims that:

- a. Are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor indemnitor;
- b. Arise out of or are recovered under workers’ compensation laws; and/or
- c. Arise out of a Contractor indemnitor’s failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor indemnitors shall indemnify the relevant County indemnitees from and against indemnified basic claims in all instances except where the indemnified basic claim arises solely from those County indemnitees’ own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for and on behalf of the other Contractor indemnitors with respect to County indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor indemnitors. In consideration of the award of the contract by a County indemnitee, Contractor hereby waives all rights of subrogation against County indemnities for losses arising from the work.

- d. It is the specific intention of the County and the Contractor that the County shall, in all instances, except for the gross negligent or willful acts of the County, be indemnified, defended and held harmless by the Contractor from and against any all demands, claims, suits, losses, and damages.

16.4 Public Health Information Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County and its supervisors, directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities (“Indemnitees”), costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind, including but not limited to, personal injury or property damage, loss or injury, including death, violations of HIPAA (including court costs and reasonable attorneys’ fees) brought by a third party, arising from or relating to the acts or omissions of Contractor or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Contractor’s performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement.

16.5 Patent and Copyright Indemnification. With respect to materials or services provided or proposed by a Contractor indemnitor for performance under the contract, Contractor shall indemnify, defend and hold harmless County indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the materials and the services. With respect to the defense and payment of claims under this subparagraph:

- a. County shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
- b. Contractor, with reasonable consultation from County shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
- c. County may elect to participate in such action at its own expense; and
- d. County may approve or disapprove any settlement or compromise, provided that the County shall not unreasonably withhold or delay such approval or disapproval; and the County shall cooperate in the defense and in any related settlement negotiations.

16.6 Force Majeure.

- a. Relief From Performance. The parties are not liable to each other if an occurrence of force majeure prevents its performance under the contract. If either party is delayed at any time in the progress of its performance under the contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and

notify the other party when it has done so. The parties will extend the time of completion by contract amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

- b. Excusable Delay is Not a Default. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.
- c. Default Diminishes Relief. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case the other party's normal remedies and the affected party's obligations would apply undiminished.

16.7 Third Party Antitrust Violations. The Contractor assigns to the County any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this contract.

17. WARRANTIES

17.1 Liens. Contractor warrants that the materials and services when accepted will be and will remain free of liens or other encumbrances.

17.2 Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the contract, the materials and services will for one (1) year after acceptance and in each instance:

- a. Conform to the requirements of the contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the contract;
- b. Be free from defects of material and workmanship;
- c. Conform to or perform in a manner consistent with current industry standards; and
- d. Be fit for the intended purpose or use described in the contract.

Mere delivery or performance does not substitute for express acceptance by County. Where inspection, testing, or other acceptance assessment of materials or services cannot be done until after installation, the forgoing warranty will not begin until County's acceptance.

17.3 Product Safety. Materials as shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, the County is not responsible for making any materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

17.4 Contractor Personnel. Contractor warrants that its personnel will perform their duties under the contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and

in accordance with the requirements of the contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to the County upon request.

17.5 Data Protection and Confidentiality of Records.

- a. **Proprietary and Sensitive Data.** Contractor warrants that it will establish and maintain procedures and controls acceptable to the County for ensuring that the County's proprietary and sensitive data is protected from unauthorized access and information obtained from County or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the contract, provided to the Contractor by the County or prepared by others for the County are proprietary to the County and all information by those same avenues is the County's confidential information. To comply with the foregoing warrant:
- (1) Contractor shall: (i) notify the County immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (ii) cooperate with the County to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (iii) notify the County promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
 - (2) Contractor shall not: (i) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the contract, unless the County has agreed otherwise in advance and in writing; or (ii) respond to any requests it receives from a third party for such data or information, and instead route all such requests to the County's designated representative.
- b. **Personally Identifiable Information.** Contractor warrants that it will protect any personally identifiable information ("PII") belonging to the County's employees' or other Contractors or members of the general public that it receives from the County or otherwise acquires in its performance under the contract. (For purposes of this paragraph PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information.)
NOTE: For convenience of reference only, the OMB memorandum is available at:
<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2007/m07-16.pdf>.
NOTE: For convenience of reference only, the GSA directive is available at:
<http://www.gsa.gov/portal/directive/d0/content/658222>
- c. **Protected Health Information.** Contractor warrants that, to the extent performance under the contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

- (1) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (i) the “Privacy Rule” in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996; (ii) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 (“ERISA”) as amended; and (iii) the County’s current and published PHI/ePHI privacy and security policies and procedures;
- (2) Will cooperate with the County in the course of performing under the contract so that both the County and Contractor stay in compliance with the requirements above and will sign any documents that are reasonably necessary to keep both the County and Contractor in compliance with the requirements above, in particular “Business Associate Agreements” in accordance with the Privacy Rule. NOTE: For convenience of reference only, the Privacy Rule is available at: <http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

- 17.6 Intellectual Property. Contractor warrants that the materials and services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 17.7 Compliance with Applicable Laws, Licensing and Permits. Contractor warrants that the materials and services supplied under this Contract do and will continue to comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 17.8 Lobbying. Contractor warrants that it will not engage in lobbying activities as defined in 40 CFR part 34 and A.R.S. § 41-1231, *et seq.*, using monies awarded under the contract. Upon award of the Contract, Contractor shall disclose all lobbying activities to the County to the extent they are an actual or potential conflict of interest or where such activities would create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure that monies awarded under the contract are not used for lobbying. Subcontractors shall be subject to these same provisions. Contractor shall include “anti-lobbying” provisions in all subcontracts. This paragraph does not apply to the extent that the services are defined in the contract as being lobbying for the County’s benefit or on the County’s behalf.
- 17.9 Survival of Rights and Obligations. All representations and warranties made by Contractor under the contract will survive the expiration or earlier termination of the contract. The Contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.

18. COUNTY’S CONTRACTUAL REMEDIES

- 18.1 Right to Assurance. If the County in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the County’s option,

be the basis for terminating the contract under the Terms and Conditions or other rights and remedies available by law or provided by the contract.

- 18.2 Stop Work Order. The County may at any time require Contractor to stop all or any part of the work by written order. Upon receipt of a stop order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to County associated with the portions of the work covered by the order. If Contractor incurs losses, it may make a claim under the Pinal County Procurement Code.
- 18.3 Non-exclusive Remedies. The County's rights and remedies under the contract are not exclusive.
- 18.4 Nonconforming Tender. The materials provided and services performed must comply fully with the contract. Providing materials or performing services or any portion thereof that do not comply fully constitutes a breach of contract, in which event the County will be entitled to exercise any remedy available to it under the contract or laws.
- 18.5 Right to Offset. The County is entitled to offset against any sums due contractor, any expenses or costs the County incurs, or damages the County assessed concerning Contractor's non-conforming performance or failure to carry out the work, including any expenses, costs, and damages to which it is entitled by the contract or laws.

19. CONTRACT TERMINATION

- 19.1 Termination for Conflict of Interest. Pursuant to A.R.S. § 38-511, the County may terminate this contract within three (3) years after the effective date without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is or becomes an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. Any such termination will be effective when Contractor receives the County's written notice of the termination unless the notice specifies a later date. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 19.2 Gratuities. The County may by written notice, terminate the contract in whole or in part if the County determines that employment or a gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of the County for the purpose of influencing the outcome of the procurement or the administration of the contract, or in anticipation of receiving any favorable treatment concerning the contract or performance of the contract. The County, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by Contractor.
- 19.3 Suspension or Debarment. The County may, by written notice to Contractor, terminate the contract immediately if the County discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. The County has taken Contractor's submittal of the accepted offer and will take its performance under the contract as

Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify the Procurement Officer immediately.

- 19.4 Termination for Convenience. The County may terminate the contract when in the best interest of the County, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the contract. Upon receipt of the County's written termination notice, Contractor shall stop work as directed in the notice, notify all subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to the County. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract will become the County's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination.
- 19.5 Termination for Default. In addition to the rights reserved to it under the contract, the County may terminate the contract in whole or in part due to Contractor's failure to:
- a. Comply with any requirement(s), term(s), or condition(s) of the contract;
 - b. Obtain and maintain all required insurance policies, bonds, licenses, and permits;
 - c. Make satisfactory progress in carrying out the work or meeting applicable milestones; or
 - d. Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

20. CONTRACT CLAIMS

- 20.1 Claim Resolution. All claims and controversies shall be subject to the Pinal County Procurement Code.
- 20.2 Arbitration. It is understood and agreed that no provision of any resulting contract shall require arbitration upon the County except by the County's express written consent given subsequent to the execution of the contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. § 12-1501, *et seq.* The Contractor shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.



This agreement and exhibits hereto, as well as any purchase orders issued against this agreement, shall constitute the entire agreement between the parties with respect to the goods or services ordered under this agreement. No amendment to this agreement will be effective or binding upon the parties unless set forth in writing.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PINAL COUNTY
31 N. Pinal Street
Florence, AZ 85132

CENTRILOGIC, INC.
28 Mansfield Street
Rochester, NY 14606

BY: Jeff Serdy
(Name)

BY: Geoff Martin
(Name)

Chairman Pinal County Board of Supervisors
(Title)

VP of Sales, Applications
(Title)

(Signature)

Developed by
Geoff Martin
SIGNATURE
(Signature)

DATE: December 6, 2023

DATE: Oct 27, 2023 7:10 PM ET

Approved as to Legal Content:

[Handwritten Signature]
Pinal County Attorney's Office (Date) 11/9/23

Exhibit D
Business Associate Agreement

This Business Associate Agreement (this "Agreement") is entered into between Centrilogic, Inc., ("Business Associate"), and Pinal County ("Covered Entity"), and shall be effective (the "Effective Date") upon the date this Agreement is executed by the Covered Entity.

Covered Entity and Business Associate mutually agree to modify any current or future services agreement executed by and between them in order to incorporate the terms of this Agreement to comply with the requirements of the implementing regulations at 45 Code of Federal Regulations ("C.F.R.") Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

The parties further agree that Business Associate will function as a "business associate" of Covered Entity and Covered Entity will function as a "covered entity" as those terms are defined in 45 C.F.R. §160.103.

1. **DEFINITIONS.** The terms "Electronic Protected Health Information" and "Protected Health Information" have the meanings set out in 45 C.F.R. §160.103. The term "Unsecured Protected Health Information" has the meaning set forth at 45 C.F.R. §164.402. The term "Required by Law" has the meaning set out in 45 C.F.R. §164.103. The term "Treatment" has the meaning set out in 45 C.F.R. §164.501. The term "Authorization" has the meaning set out in 45 C.F.R. §164.508. The term "Subcontractor" has the meaning set out in 45 C.F.R. §160.103. The term "Breach" will have the meaning set out at 45 C.F.R. §164.402. The term "Designated Record Set" will have the meaning set out at 45 C.F.R. §164.501.

2. **PRIVACY OF PROTECTED HEALTH INFORMATION.**
 - 2.1 Permitted Uses and Disclosures. Business Associate is only permitted to use and disclose Protected Health Information, whether in paper form or in electronic form, that it creates or receives from Covered Entity (or another business associate of Covered Entity) ("Covered Entity's Protected Health Information") as follows:
 - a. Functions and Activities on Covered Entity's Behalf. To perform functions, activities, services, and operations on behalf of Covered Entity as specified in the services agreement.

 - b. Covered Entity's Operations. For Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities, provided that, with respect to disclosure of Covered Entity's Protected Health Information, either:
 - 1) The disclosure is Required by Law; or

 - 2) Business Associate obtains reasonable assurance, evidenced by a written contract with terms substantially similar to this Agreement, from any third party person or entity to which Business

Associate will disclose Covered Entity's Protected Health Information that the person or entity will:

- a) Hold Covered Entity's Protected Health Information in confidence and use or further disclose Covered Entity's Protected Health Information only for the purpose for which Business Associate disclosed Covered Entity's Protected Health Information to the person or entity or as Required by Law; and
- b) Promptly notify Business Associate (who will in turn notify Covered Entity in accordance with Sections 4(a) and (b) of this Agreement) of any instance of which the person or entity.

2.2 Minimum Necessary. Business Associate will, in its performance of the functions, activities, services, and operations specified in Section 2(a) above, make best efforts to use, to disclose, and to request of Covered Entity only the minimum amount of Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation with respect to:

- a. Use for or disclosure to an individual who is the subject of Covered Entity's Protected Health Information, or that individual's personal representative;
- b. Use or disclosure made pursuant to an Authorization that is signed by an individual who is the subject of Covered Entity's Protected Health Information to be used or disclosed, or by that individual's personal representative;
- c. Disclosure to the United States Department of Health and Human Services ("DHHS") in accordance with Section 7(a) of this Agreement;
- d. Use or disclosure that is Required by Law; or
- e. Any other use or disclosure that is excepted from the minimum necessary limitation as specified in the Privacy Rule (as hereinafter defined).

2.3 Prohibition on Unauthorized Use or Disclosure. Business Associate will neither use nor disclose Covered Entity's Protected Health Information, except as permitted or required by this Agreement or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Covered Entity's Protected Health Information in a manner that would violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" ("Privacy Rule").

2.4 Information Safeguards.

- a. Privacy of Covered Entity's Protected Health Information. Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Covered Entity's Protected Health Information. The safeguards must reasonably protect



Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

- b. Security of Covered Entity's Protected Health Information. Business Associate will use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Covered Entity's Electronic Health Information, to prevent use or disclosure of that Electronic Protected Health Information other than as provided for by the Agreement.

2.5 Subcontractors. Business Associate will require any of its Subcontractors, to which Business Associate is permitted by this Agreement to disclose Covered Entity's Protected Health Information, to agree, as evidenced by written contract with terms substantially similar to those found in this Agreement, that such Subcontractor will comply with the same privacy and security safeguard obligations with respect to Covered Entity's Protected Health Information that are applicable to Business Associate under this Agreement.

2.6 Indemnification and Insurance. Business Associate shall indemnify, defend and hold harmless Covered Entity and its directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities, costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind (including court costs, reasonable attorneys' fees, primary loss investigation, judgement costs, expert witness fees, and any and all fees and costs from appellate proceedings), and civil and criminal penalties brought by a third party, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Business Associate's performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement. Business Associate shall obtain no later than one (1) month from Effective Date of this Agreement and maintain during the term of this Agreement liability insurance covering claims based on a violation of the Privacy Rule or any applicable law or regulation concerning the privacy of a patient information and claims based on its obligations (Name of Practice) HIPAA BUSINESS ASSOCIATE AGREEMENT 6/12 pursuant to this Section in an amount not less than \$ 1,000,000 per claim. Such insurance shall be in the form of occurrence-based coverage. A copy of such policy or certificate evidencing the policy shall be provided to Covered Entity upon written notice.

3 INDIVIDUAL RIGHTS.

3.1 Access. Business Associate will, within five (5) days following Covered Entity's request, make available to Covered Entity or, at Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies, Covered Entity's Protected Health Information, in a Designated Record Set, about the individual that is in Covered Entity's custody or control.



- 3.2 Amendment. Business Associate will, upon receipt of written notice from Covered Entity, promptly amend, or permit Covered Entity access to amend, any portion of Covered Entity's Protected Health Information.
- 3.3 Disclosure Accounting. So that Covered Entity may meet its disclosure accounting obligations under the Privacy Rule:
- a. Disclosures Not Subject to Accounting. Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Covered Entity's Protected Health Information that are expressly excluded from such disclosure accounting requirement as set forth at 45 C.F.R. § 164.528(a)(1).
 - b. Disclosures Subject to Accounting and Necessary Information. Business Associate will record the information specified in Section 3(c)(ii)(A) or (B), as applicable, for each disclosure of Covered Entity's Protected Health Information that Business Associate makes to third party. With respect to any disclosure by Business Associate of Covered Entity's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:
 - 1) Disclosure Information Generally. Except for repetitive disclosures of Covered Entity's Protected Health Information as specified in Section 3(c)(ii)(B) below, the Disclosure Information that Business Associate must record for each accountable disclosure is (1) the disclosure date, (2) the name and (if known) address of the entity to which Business Associate made the disclosure, (3) a brief description of Covered Entity's Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure.
 - 2) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of Covered Entity's Protected Health Information that Business Associate makes for a single purpose to the same person or entity, the Disclosure Information that Covered Entity must record is either (1) the Disclosure Information specified in Section 3(c)(ii)(A) above for each accountable disclosure; or (2) the Disclosure Information specified in Section 3(c)(ii)(A) for the first of the repetitive accountable disclosures, the frequency, periodicity, or number of the repetitive accountable disclosures, and the date of the last of the repetitive accountable disclosures.
 - c. Availability of Disclosure Information. Business Associate will maintain the Disclosure Information for at least six (6) years following the date of the accountable disclosure to which the Disclosure Information relates. Business Associate will make the Disclosure Information available to Covered Entity within thirty (30) days following Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting.



3.4 Restriction Agreements and Confidential Communications. Business Associate will comply with any agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity's Protected Health Information, or (ii) requires confidential or alternate methods of communication about Covered Entity's Protected Health Information, provided that Covered Entity notifies Business Associate in writing of the restriction or confidential or alternate communication obligations that Covered Entity must follow. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential or alternate communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement.

4. **PRIVACY/SECURITY BREACH INVESTIGATIONS & REPORTING.**

- 4.1 Business Associate will promptly and thoroughly investigate any suspected Breach of Covered Entity's Unsecured Protected Health Information not permitted by this Agreement or applicable law.
- 4.2 Business Associate will notify Covered Entity regarding a Breach of Covered Entity's Unsecured Protected Health Information ("Covered Entity Privacy Event") without unreasonable delay, but in no event later than three (3) calendar days of discovering that a Breach occurred, regardless if such Covered Entity Privacy Event is discovered by Business Associate or by any Subcontractor of Business Associate. Additionally, Business Associate will use its best efforts to assist with Covered Entity's breach investigation by making a timely written report to Covered Entity on any substantiated investigation of a Covered Entity Privacy Event. Business Associate will include as much of the information described in Sections 4(c) as is available at the time the report is written and will supplement the report with additional information once that information is known.
- 4.3 Business Associate's initial written report concerning a Covered Entity Privacy Event will, at a minimum:
 - a. Identify the names and respective titles of those who conducted the investigation on the part of Business Associate, be delivered on Business Associate's official letterhead, be signed by an officer or director of Business Associate or other responsible person and contain appropriate contact information should Covered Entity need further clarification regarding the content of the report;
 - b. Identify Covered Entity's Protected Health Information (at the individual level) that was subject to the Breach and the date the Breach occurred;
 - c. Identify the date the Breach was discovered by Business Associate;
 - d. Identify the storage medium (e.g. floppy disc, paper record, electronic server) wherein the affected Protected Health Information was housed;
 - e. Identify who committed the Breach of Covered Entity's Protected Health Information and if a disclosure of

Covered Entity's Protected Health Information was made, the identity of the person or entity to which that disclosure was made and the date or dates those disclosures occurred;

- f. Identify what corrective action Business Associate took or will take to prevent further non-permitted uses or disclosures;
- g. Identify what Business Associate did or will do to mitigate any harmful effect of the non-permitted use or disclosure; and
- h. Provide any other information to Covered Entity as Covered Entity may request to fulfill its reporting obligations to an affected individual as required under 45 C.F.R. §164.410.

5. OTHER COVERED ENTITY OBLIGATION. To the extent Business Associate is to carry out Covered Entity's obligation under the Privacy Rule, Business Associate will comply with the requirements applicable to the obligation.

6. TERMINATION OF AGREEMENT.

6.1 Right to Terminate for Breach. Covered Entity may terminate the Agreement if Business Associate has breached any provision of this Agreement. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

6.2 Termination of Agreement on Conclusion of Services Agreement. This Agreement will terminate pursuant to Section 6(a) or upon the termination of the services agreement.

a. Obligations on Termination.

- 1) Return or Destruction of Covered Entity's Protected Health Information as Feasible. Upon termination Business Associate will, if feasible, return to Covered Entity or destroy all of Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information. Business Associate will require any Subcontractor, to which Business Associate has disclosed Covered Entity's Protected Health Information to, if feasible, return to Business Associate (so that Business Associate may return it to Covered Entity) or destroy all of Covered Entity's Protected Health Information in whatever form or medium received from Covered Entity, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information, and certify on oath to Covered Entity that all such information has been returned or destroyed. Covered Entity will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or

other conclusion of the Agreement.

- 2) Procedure When Return or Destruction Is Not Feasible. Business Associate will identify any of Covered Entity's Protected Health Information, including any that Business Associate has disclosed to Subcontractors of this Agreement, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will, by its written contract with any Subcontractor to which Business Associate discloses Covered Entity's Protected Health Information require such Subcontractor to limit its further use or disclosure of Covered Entity's Protected Health Information that such Subcontractor cannot feasibly return or destroy to those purposes that make the return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or other conclusion of the Agreement.

- 3) Continuing Privacy and Security Obligation. Business Associate's obligation to protect the privacy and safeguard the security of Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of the Agreement and this Agreement.

7. GENERAL PROVISIONS.

- 7.1 Inspection of Internal Practices, Books, and Records. Business Associate will make its internal practices, books, and records relating to its use and disclosure of Covered Entity's Protected Health Information available to Covered Entity and to DHHS to determine Covered Entity's compliance with the Privacy Rule.

- 7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of HIPAA and any other applicable law.

- 7.3 Conflicts. The terms and conditions of this Agreement will override and control any conflicting term or condition of any services agreement. All non-conflicting terms and conditions of the services agreement remain in full force and effect.



In Witness Whereof, Business Associate and Covered Entity have caused this Addendum to be signed and delivered by their duly authorized representatives, as of the date set forth above.

PINAL COUNTY

CENTRILOGIC, INC.

“Covered Entity”

“Business Associate”

BY: Jeff Serdy

BY: Scott Parks

(Name)

(Name)

Chairman, Pinal County Board of Supervisors

Client Director

(Title)

(Title)

Scott Parks

(Signature)

(Signature)

EFFECTIVE DATE: December 6, 2023

DATE: 10/27/23

Contract 233028RFP
Oracle JD Edwards EnterpriseOne Consulting Services

THIS CONTRACT is entered into by and between Pinal County, ("County"), whose primary address is 31 N. Pinal St., Bldg. A., Florence, AZ 85132 and Circular Edge, LLC, ("Contractor"), whose primary address is 399 Campus Drive, Suite 102, Somerset, NJ 08873.

1. **CONTRACT TERM.** The resultant contract term will commence upon contract execution, and will continue for one (1) year unless canceled, terminated, renewed, or permissibly extended. The County has no obligation to extend or renew the contract past the initial term.
2. **CONTRACT EXTENSION.** The County, at its sole discretion, shall have the option to extend the term of this contract up to a maximum of four (4) additional one-year terms, or at the County's sole discretion, extend the contract on a month to month basis for a maximum of nine (9) months after expiration.
3. **CONTRACT TYPE.**

Contracted Labor Rates. The contracted labor rates are the fully-burdened and marked-up billing rates for Contractor's labor scheduled in the requested Pricing Document (Attachment B-7), which rates are deemed to be inclusive of the actual gross wages plus all applicable payroll taxes, non-payroll employer burden, workers' compensation contributions and health and welfare benefit contributions; retirement or other pension contributions, vacation, sick time or other paid leave allowances and the like; all required home office support, corporate or subordinate licenses or registrations, corporate insurance, professional association fees, advertising, time and travel by any of Contractor's personnel other than billable personnel and any bonuses or other incentives for all personnel (including billable personnel); all insurance coverages to be provided by Contractor under the contract; and profit.

4. **PRICING**

4.1 Most Favored Customer Pricing.

Contractor warrants that, for the term of the contract, the prices, rates, discounts, terms, and benefits set out in the proposal, including any subsequent agreed upon amendment to it, will be equal to or better than the lowest prices, best rates, largest discounts, and most favorable terms and benefits, both separately and in combination, at which Contractor sells equivalent items. If Contractor provides more favorable pricing, rates, discounts, terms and benefits to any customer, it shall immediately apply all such pricing, rates, discounts, terms and benefits to pending County purchase orders and offer such pricing, rates, discounts, terms and benefits for all future purchases made by the County.

4.2 All-Inclusive Pricing.

Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's proposal as accepted by the County. Details of service not explicitly stated in the Scope of Work or in Contractor's proposal, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and



profit and any other costs toward the accomplishment of the requirements in the contract are included in the pricing provided.

4.3 Price Reductions and Sales Promotions.

Price reductions may be submitted to or requested by the County for consideration at any time during the life of the contract. Promotions or reductions to sell existing inventory/stock and to include special manufacturer assistance are allowable.

4.4 Price Increase.

The Procurement Officer may review a fully documented request for a rate increase only after the contract has been in effect for two (2) years. Any requested rate increase(s) shall be based on an unmitigatable cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the cost of the goods or services contractually covered.

Any request for rate increase will only be considered at the time of a contract extension and must be submitted ninety (90) days prior to the adjustment. Any request for rate increase shall be a factor in the extension review process and if approved, be implemented by a formal contract change order. The County will have the right to request and receive additional information, statistics, financial records etc., and to direct the content, form, and format of presentation as it deems necessary to validate the Contractor's request for a rate adjustment. Failure to respond to the County's request within the time frames specified will nullify the Contractor's request. The County will determine whether the requested rate increase or alternate option is in its best interest and adjustments will be subject to availability of monies appropriated, if applicable.

4.5 Delivery.

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery costs and unloading at the destination.

4.6 Change Orders.

In the event the County requires any change(s) to the Scope of Work and the Contractor anticipates that the project's approved price may be exceeded as a result of the change, the Contractor shall submit a revised project cost estimate to the requesting department.

The Contractor shall not exceed an approved project's price without written preapproval by the requesting department. If preapproval is not received, the Contractor may be subject to sanctions. The revised project price proposal shall include the following:

- a. Changes and/or adjustments caused by the County's change to the Scope of Work for the project, including any adjustments to timeframes for completion of the project.
- b. An all-inclusive project price estimate, supported by a detailed cost breakdown to include all costs required to complete the project, as changed by the County.

4.7 Travel. N/A

5. INVOICING AND PAYMENTS.

5.1 Invoices.

The Contractor shall submit detailed, itemized monthly invoices before payment(s) can be made. Incomplete invoices will not be processed and will be rejected. All invoices shall reflect the contracted prices or rates for goods or services as described in the Scope of Work. At a minimum, the invoice must provide the following information:

- a. Company name, address and contact
- b. County bill-to name and contact information
- c. Contract Number
- d. County purchase order number
- e. Invoice number and date
- f. Payment terms
- g. Itemized service price as outlined in the Price Sheet (Attachment B-7)

Problems regarding billing or invoicing shall be directed to the using department as listed on the Purchase Order. All invoices must be submitted to the following e-mail or postal address:

Pinal County Finance Department
Attn: Accounts Payable
PO Box 1348
Florence, AZ 85132
financeinvoices@pinal.gov

5.2 Milestones and Retainage.

N/A

5.3 No Invoice Without Authorization. Contractor shall not seek payment for any:

- a. Charges or fees not delineated in the contract.
- b. Materials or services that have not been authorized on a purchase order.
- c. Expediting, overtime, premiums, or upcharges absent the County's express written prior approval.
- d. Materials or services that are the subject of a contract amendment or change order that has not been fully signed.

5.4 Timeliness of Invoice. By A.R.S. § 11-622, all invoices must be submitted to the County within six (6) months after service or product is received. Failure to submit an invoice within this period of time will result in non-payment.

5.5 Payments. No payment shall be issued prior to receipt of acceptable goods and/or services and a correct invoice. The County shall make every effort to process payment for acceptable goods or services within thirty (30) calendar days after receipt of said items/services and a correct invoice.

- 5.6 Payments Only to Contractor. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, the County will only make payment to Contractor under the federal tax identifier indicated on the accepted offer.
- 5.7 Payments to Subcontractors. Contractor shall make payment of all undisputed amounts due to Subcontractors, as applicable to their services, within thirty (30) days of receipt of funds from the County.
- 5.8 Availability of Funds. By A.R.S. § 35-154, every County payment obligation under the contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the contract, the County may terminate the contract at the end of the period for which funds are available, or, at County's discretion, allow appropriate amendment to the contract. No liability will accrue to County if it exercises the foregoing right or discretion, and County will have no obligation or liability for any future payments or for any damages as a result of having exercised it.
6. ARIZONA LAW. This contract shall be governed by the law of the State of Arizona and suits pertaining to this contract shall be brought only in the Pinal County Superior Court, Florence, Arizona.
7. IMPLIED LAW. Each provision of law and any terms required by law to be in this contract shall be deemed an integrated part of this contract as if fully stated herein.
8. PUBLIC RECORD. This contract is a public record and must be retained by the County for a minimum of six (6) years. All contracts are open to public inspection after contract award, except for any portions determined to be confidential by the County.
9. CONTRACT ORDER OF PRECEDENCE. All of the documents forming the contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the work as though the relevant work, requirements, obligations, or duties had been fully described on all, consistent with the other documents forming the contract and as is reasonably inferable from them as being necessary to produce complete results. In case of any inconsistency, conflict, or ambiguity among the documents forming the contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.
- a. Written Contract Amendments
 - b. Contract
 - c. Contract Exhibit(s) A (i.e. Contracted Scope of Work)
 - d. Contract Exhibit(s) B (i.e. Contract Pricing Documents)
 - e. Contract Exhibit(s) C (i.e. Responder's Proposal Documents)
 - f. Other Contract Exhibits
 - g. Orders, in reverse chronological order
10. RELATIONSHIP OF THE PARTIES. The Contractor under this contract is an independent Contractor and shall act in an independent capacity in performance under the contract. Neither party is or is to be construed as being an

employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

- 11. SEVERABILITY. Any term or condition deemed or found illegal or invalid is thereby stricken from the contract and shall not affect any other term or condition of the contract.
- 12. NO PAROLE EVIDENCE. The contract, including any documents incorporated into the contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the contract.
- 13. NO WAIVER. Either party’s failure to insist on strict performance of any term or condition of the contract is not, or will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of right of, enforcement of any term or condition.

14. CONTRACT ADMINISTRATION AND OPERATION.

14.1 Notices and Correspondence. Notices required by this Contract shall be made to the following addresses:

County	Contractor
Name: Pinal County Purchasing Division Attn: Tiara Peterson	Name: Circular Edge, LLC Attn: Jonathan Cobb
Address: PO Box 1348 Florence, AZ 85132	Address: 399 Campus Drive Suite 102 Somerset, NJ 08873
Title: Purchasing Manager	Title: Regional Solutions Director
Email: Purchasing@Pinal.gov	Email: jonathan.cobb@circularedge.com

An authorized County representative and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the contract shall not be necessary.

14.2 Click-Through Terms and Conditions. If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the contract (each an “Electronic Ordering System”), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of the County do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the contract. Accordingly, where an authorized County user is required to “click through” or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation and non-binding upon the County. Additionally, where an authorized County user is required to accept or be made subject to any terms and conditions in accessing or employing any materials or services, those terms and conditions will also be void and non-binding.

- 14.3 Books and Records. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each of its Subcontractor to retain books and records *relating for any cost and pricing data submitted* in satisfaction of § 41-2543 for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records *relating to performance under the contract* for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Accordingly, Contractor or Subcontractor shall either make all such books and records available to the County at all reasonable times or produce the records at a designated County office on the County's demand, the choice of which being at the County's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. The Contractor and/or Subcontractor shall produce the requested records within the prescribed statutory timeframe or within fourteen (14) days which ever is longer.
- 14.4 Contractor Licenses. Contractor and Subcontractor(s) shall maintain in current status all federal, state, and local licenses and permits required for the operation of its business in general, for its operations under the contract, and if required by this contract, the work itself.
- 14.5 Inspection and Testing. Per A.R.S. § 41-2547, the County may at reasonable times inspect the part of Contractor's or Subcontractors' plant(s) or places of business related to performance under the contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. The County may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the contract or that will be incorporated into something to be supplied under the contract. If the inspection or testing shows non-conformance or defects, the Contractor will owe the County reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by the County of those items.
- 14.6 Acceptance of Work.
- a. Materials. The County has the right to make acceptance of materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. The County may apply as acceptance criteria conformity to the contract, workmanship and quality, whether the constituent materials used are correct, and any other matter for which the contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected materials from the delivery location, or from any immediate locations to which it might have been reasonably necessary to move it, then inspect it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. The County will not owe Contractor any payment for rejected materials, and the County may, at its discretion, withhold or make partial payment for any rejected materials that have been returned to Contractor in those instances where the County has agreed to permit repair instead of demanding

replacement. In the case that materials are accepted and then later deemed to not conform to the acceptance criteria of the contract the Contractor shall provided either a credit for the non-conforming materials or provided conforming materials at no additional cost to the County within a reasonable timeframe.

- b. Services. The County has the right to make acceptance of services subject to acceptance criteria. The County may apply as acceptance criteria conformity to the contract, accuracy, completeness, or other indicators of quality, or any other matter for which the contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. The County will not owe Contractor any payment for un-accepted services; and the County may, at its discretion, withhold or make partial payment for any rejected services if Contractor is still in the process of re-performing or otherwise curing the grounds for the County's rejection.

14.7 Ownership of Intellectual Property.

- a. Rights in Work Product. Unless otherwise noted in the terms and conditions of this contract, all intellectual property originated or prepared by Contractor pursuant to the contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the contract, shall be considered work product and shall be the exclusive property of Contractor, provided that County has Government Purpose Rights to that work product as and when it was delivered to County.
 - (1) "Government Purpose Rights" are: (i) the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which the County is a party; (ii) the right to release or disclose that work product to third parties for any County purpose; and (iii) the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any County purpose; such recipients being understood to include the federal government, the state government, and various local governments.
 - (2) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.
- b. Joint Developments. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
- c. Pre-Existing Material. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the contract or applicable purchase orders are not

part of the work product to which rights are granted as stated above, and will remain the exclusive property of Contractor, provided that:

- (1) Any derivative works of such pre-existing material or elements thereof that are created pursuant to the contract are part of that work product;
- (2) Any elements of derivative work of such pre-existing material that was not created pursuant to the contract are not part of that work product; and
- (3) Except as expressly stated otherwise in the contract, nothing in the contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

d. **Developments Outside of Contract.** Unless expressly stated otherwise in the Terms and Conditions, the contract does not preclude Contractor from developing competing materials outside the contract, irrespective of any similarity to materials delivered or to be delivered to the County hereunder.

- 14.8 **Subcontracts.** The Contractor shall not enter into any subcontract under this contract for the performance of this contract without the advance written notice to the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. It is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees or agents of the Contractor and not the County. Nothing contained in any contract or joint venture agreement shall create any contractual relationships between any subcontractor and County, nor shall the same create any obligation on the part of the County to pay any subcontractor. The subcontract shall incorporate by reference the terms and conditions of this contract.
- 14.9 **Non-Discrimination.** Contractor shall comply with the State of Arizona Executive Order No. 2009-09 and all other applicable federal, state and local laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.
- 14.10 **E-Verify Requirements.** As required by A.R.S. § 41-4401, Contractor and each subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each subcontractor acknowledge that under A.R.S. § 41-4401, the County retains the legal right to inspect the papers of any Contractor or subcontractor employee who works under the contract to ensure that Contractor or subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- 14.11 **Offshore Performance of Certain Work Prohibited.** Any services that are described in the specifications or Scope of Work that directly serve the County or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services, services performed through remote access to the County network, or services that are incidental to the performance of the contract. This provision applies to work performed by Subcontractors at all tiers. Responders shall declare all anticipated offshore services in the proposal.

- 14.12 Estimated Quantities. Unless expressly stated otherwise in the solicitation, the (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on orders; (b) County makes no commitment of any kind concerning the quantity or monetary value of activity, work or services actually initiated or completed during the term of the contract; (c) Contractor shall only deliver or perform as authorized by orders; and (d) County is not limited as to the number of orders it may issue for the contract.
- 14.13 Non-Exclusivity. This contract is entered into with the understanding and agreement that it is for the sole convenience of Pinal County. The County reserves the right to obtain like materials or services from another source when necessary without penalty or obligation. The County reserves the right to make additional awards by aggregate, line item, regional area, or any other division of goods and services as determined to be in the best interest of the County.
- 14.14 Additions and Deletions to Contract. The County reserves the right to add and/or delete goods or services to the Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required for a contract, prices for such additions will be negotiated between the Contractor and the County.
- 14.15 Applicable Taxes. The Contractor shall be responsible for paying all applicable taxes. Pinal County is subject to all applicable state and local transaction privilege taxes. The County is exempt from certain federal excise tax on manufactured goods. The County will provide the necessary exemption certificates as evidence. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with County unless not required by law.
- 14.16 Eligible Agencies. This contract shall be for the exclusive use of Pinal County.
- 14.17 Transitions. During commencement of the contract the Contractor shall attend transition meetings with outgoing suppliers as requested by the County to coordinate efforts, ease the transition, and minimize disruption in the County's operations. The County may elect to have outgoing suppliers complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible, even if that scope is covered under the contract with the new supplier. Conversely, the County anticipates having a continued need for the same materials and services upon expiration or earlier termination of the contract. Accordingly, Contractor shall work closely with any new (incoming) supplier and the County to ensure a smooth and complete transfer. The County's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both the existing Contractor and the incoming supplier. During the outgoing transition, the County may elect to have the outgoing Contractor complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible.

- 14.18 Other Contractors. The County may undertake with its own resources or through award of other contracts to the same or other suppliers, additional or related work. In such cases, the Contractor shall cooperate fully with the County's employees and other suppliers and carefully fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the contract requires handing-off Contractor's work to others, Contractor shall cooperate as the County instructs regarding the necessary transfer of its work product, services, or records to the County or the other suppliers. Contractor shall not commit or permit any act that interferes with the County's or other suppliers' performance of their work, provided that, the County shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 14.19 Work on County Premises.
- a. Compliance with Rules. Contractor is responsible for ensuring that its personnel comply with County's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing materials or performing services on County grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the contract. Contractor is reminded that violation under Pinal County Security policy 2.10 to possess a firearm, ammunition, or an explosive device in a County building is a material breach of contract and grounds for termination for default.
 - b. Protection of Facilities and Grounds. Contractor shall deliver or install the materials and perform the services without damaging any County facilities or grounds. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions the County needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, the County will be entitled to exercise its remedies under paragraph 17.5 "Right to Offset."
- 14.20 Advertising, Publishing, and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this contract without the prior written approval of the Procurement Officer.
- 14.21 Israel Boycott Prohibited. **Pursuant to A.R.S. § 35-393.01(A) and to the extent allowable by law**, if the Contractor engages in for-profit activity and has ten (10) or more employees, and if this agreement has a value of \$100,000 or more, the Contractor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
- 14.22 Use of Forced Labor of Ethnic Uyghurs Prohibited. Pursuant to A.R.S. § 35-394, the use of forced labor, any goods produced by forced labor or contractors or subcontractors that utilize the forced labor of Ethnic Uyghurs in the People's Republic of China is prohibited. Written certification that the contractor complies with this provision shall be submitted to the County. If written certification has been submitted, and the

contractor later determines that it is not in compliance with this provision, it shall notify the County within five (5) business days. If the County does not receive notification that within one hundred and eighty (180) days of finding the violation, the company has remedied the violation of this section, the contract will terminate. If the contract naturally or otherwise terminates before the end of the one hundred and eighty (180) day remedy period, the contract terminates on the contract termination date.

15. CONTRACT CHANGES.

- 15.1 Contract Amendments. The contract is issued under the authority of the Pinal County Board of Supervisors. Only a contract amendment can modify the contract and then only if it does not change the contract's general scope. Purported changes to the contract by a person not expressly authorized by the Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the contract based on any such purported changes.
- 15.2 Signing of Contract Amendments. Contractor's counter-signature (or "approval") of contract modifications is not required to give effect if the contract amendment only covers either:
- a. Extension of the term of the contract within the maximum aggregate term;
 - b. Revision to Procurement Officer appointment or contact information; or
 - c. Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the contract.

In every case other than those listed in a, b, and c above, both parties' signature (or "approval") of a contract modification is required to give it effect.

- 15.3 Assignment and Delegation. Contractor shall not assign in whole its rights or delegate in whole its duties under the contract without the Procurement Officer's prior written consent, which consent the Procurement Officer may withhold at his or her discretion. The Procurement Officer shall not unreasonably withhold approval of assignment or delegation. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving County satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when County first awarded it the contract. This contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto.

16. RISKS AND LIABILITIES

- 16.1 Risk of Loss. Contractor bears all risk of loss to materials while in pre-production, production, storage transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the Scope of the Work, until they have been received and accepted as conforming by the County at the location designated in the purchase order or contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.



16.2 Contractor Insurance. The Contractor and any tier of Subcontractor shall purchase and maintain insurance, until all of their obligations have been discharged including any warranty periods under this contract, against claims for injury to persons or damage to property which may arise from or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees, or Subcontractors. Failure to do so may, at the sole discretion of the County, constitute a material breach of the contract.

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

a. Minimum Scope and Limits of Insurance. Contractor shall purchase and maintain coverage with coverages and limits of liability not less than those stated below.

(1) Commercial General Liability (CGL). Commercial General Liability (CGL) Insurance (CG 0001) and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 General Aggregate Limit, and \$2,000,000 Completed Operations/Products Aggregate. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. The additional insured endorsement shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor's work or service.

(2) Automobile Liability. Commercial/Business Automobile Liability insurance with a combined single limit (CSL) for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this contract.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor, and shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by

the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor’s work or service.

(3) Workers’ Compensation and Employer’s Liability.

Workers’ Compensation Employer’s Liability	Statutory
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Policy shall contain a waiver of subrogation against Pinal County and its officers, officials, agents, and employees for losses arising from work or service performed by or on behalf of the Contractor. This requirement shall not apply to each Contractor this is exempt under A.R.S. 23-902 (E), and when such Contractor executes the appropriate sole proprietor waiver form.

(4) Professional Errors and Omissions Liability. Coverage shall be for minimum amounts of \$2,000,000 per claim and \$5,000,000 annual aggregate.

(5) Technology or Cyber Liability. Technology or Cyber Liability insurance with a minimum of \$2,000,000 per claim and \$5,000,000 aggregate. Insurance shall include coverage for cloud computing and mobile devices, protection of private or confidential information, network security and privacy, liability for system attacks, digital asset loss, denial or loss of service, unauthorized access and use, as well as introduction, implantation or spread of malicious software code.

b. Additional Insurance Requirements. The policies shall include, or be endorsed to include the following provisions:

(1) The Contractor’s policies, as applicable, shall be primary and non contributory to insurance or self-insurance carried by the County, it’s agents, officials, or employees.

(2) Insurance provided by the Contractor shall not limit the Contractor’s liability assumed under the indemnification provisions of this contract.

c. Notice of Cancellation. Applicable to all insurance policies required within the insurance requirements of this contract, Contractor’s insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the County.

d. Acceptability of Insurers. Contractor shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best rating of not less than A-6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of

Arizona, provided that said insurance companies meet the approval of the County. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

- e. **Verification of Coverage.** Contractor shall furnish the County with certificates of insurance or formal endorsements as required by the contract at least fourteen (14) calendar days prior to commencing work or services under the contract. Such certificates shall identify this contract number and project description and shall be sent directly to the attention of Pinal County Purchasing Department. In the event any insurance policy(ies) required by this contract are written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Contractor’s work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life of the contract, a renewal certificate must be sent to the County a minimum of fourteen (14) calendar days prior to the expiration date. The form of any insurance policies, limits, endorsements and forms must be acceptable to the County. The County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County’s right to insist on strict fulfillment of Contractor’s obligations under this Contract.
- f. **Subcontractors.** All coverages for all tiers of Subcontractors shall be subject to the minimum insurance requirements identified above. The County reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its Subcontractors have the required coverage.
- g. **Approval and Modifications.** The County 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.

16.3 **Basic Indemnification.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County indemnitees from indemnified basic claims that:

- a. Are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor indemnitor;
- b. Arise out of or are recovered under workers’ compensation laws; and/or
- c. Arise out of a Contractor indemnitor’s failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor indemnitors shall indemnify the relevant County indemnitees from and against indemnified basic claims in all instances except where the indemnified basic claim arises solely from those County indemnitees’ own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for and on behalf of the other Contractor indemnitors with respect to County indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor indemnitors. In consideration of the award of the contract by a County indemnitee, Contractor hereby waives all rights of subrogation against County indemnities for losses arising from the work.

- d. It is the specific intention of the County and the Contractor that the County shall, in all instances, except for the gross negligent or willful acts of the County, be indemnified, defended and held harmless by the Contractor from and against any all demands, claims, suits, losses, and damages.

16.4 Public Health Information Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County and its supervisors, directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities (“Indemnitees”), costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind, including but not limited to, personal injury or property damage, loss or injury, including death, violations of HIPAA (including court costs and reasonable attorneys’ fees) brought by a third party, arising from or relating to the acts or omissions of Contractor or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Contractor’s performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement.

16.5 Patent and Copyright Indemnification. With respect to materials or services provided or proposed by a Contractor indemnitor for performance under the contract, Contractor shall indemnify, defend and hold harmless County indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the materials and the services. With respect to the defense and payment of claims under this subparagraph:

- a. County shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
- b. Contractor, with reasonable consultation from County shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
- c. County may elect to participate in such action at its own expense; and
- d. County may approve or disapprove any settlement or compromise, provided that the County shall not unreasonably withhold or delay such approval or disapproval; and the County shall cooperate in the defense and in any related settlement negotiations.

16.6 Force Majeure.

- a. Relief From Performance. The parties are not liable to each other if an occurrence of force majeure prevents its performance under the contract. If either party is delayed at any time in the progress of its performance under the contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and

notify the other party when it has done so. The parties will extend the time of completion by contract amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

- b. Excusable Delay is Not a Default. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.
- c. Default Diminishes Relief. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case the other party's normal remedies and the affected party's obligations would apply undiminished.

16.7 Third Party Antitrust Violations. The Contractor assigns to the County any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this contract.

17. WARRANTIES

17.1 Liens. Contractor warrants that the materials and services when accepted will be and will remain free of liens or other encumbrances.

17.2 Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the contract, the materials and services will for one (1) year after acceptance and in each instance:

- a. Conform to the requirements of the contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the contract;
- b. Be free from defects of material and workmanship;
- c. Conform to or perform in a manner consistent with current industry standards; and
- d. Be fit for the intended purpose or use described in the contract.

Mere delivery or performance does not substitute for express acceptance by County. Where inspection, testing, or other acceptance assessment of materials or services cannot be done until after installation, the forgoing warranty will not begin until County's acceptance.

17.3 Product Safety. Materials as shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, the County is not responsible for making any materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

17.4 Contractor Personnel. Contractor warrants that its personnel will perform their duties under the contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and

in accordance with the requirements of the contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to the County upon request.

17.5 Data Protection and Confidentiality of Records.

- a. **Proprietary and Sensitive Data.** Contractor warrants that it will establish and maintain procedures and controls acceptable to the County for ensuring that the County's proprietary and sensitive data is protected from unauthorized access and information obtained from County or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the contract, provided to the Contractor by the County or prepared by others for the County are proprietary to the County and all information by those same avenues is the County's confidential information. To comply with the foregoing warrant:
- (1) Contractor shall: (i) notify the County immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (ii) cooperate with the County to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (iii) notify the County promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
 - (2) Contractor shall not: (i) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the contract, unless the County has agreed otherwise in advance and in writing; or (ii) respond to any requests it receives from a third party for such data or information, and instead route all such requests to the County's designated representative.
- b. **Personally Identifiable Information.** Contractor warrants that it will protect any personally identifiable information ("PII") belonging to the County's employees' or other Contractors or members of the general public that it receives from the County or otherwise acquires in its performance under the contract. (For purposes of this paragraph PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information.)
NOTE: For convenience of reference only, the OMB memorandum is available at:
<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2007/m07-16.pdf>.
NOTE: For convenience of reference only, the GSA directive is available at:
<http://www.gsa.gov/portal/directive/d0/content/658222>
- c. **Protected Health Information.** Contractor warrants that, to the extent performance under the contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

- (1) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (i) the “Privacy Rule” in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996; (ii) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 (“ERISA”) as amended; and (iii) the County’s current and published PHI/ePHI privacy and security policies and procedures;
- (2) Will cooperate with the County in the course of performing under the contract so that both the County and Contractor stay in compliance with the requirements above and will sign any documents that are reasonably necessary to keep both the County and Contractor in compliance with the requirements above, in particular “Business Associate Agreements” in accordance with the Privacy Rule. NOTE: For convenience of reference only, the Privacy Rule is available at: <http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

- 17.6 Intellectual Property. Contractor warrants that the materials and services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 17.7 Compliance with Applicable Laws, Licensing and Permits. Contractor warrants that the materials and services supplied under this Contract do and will continue to comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 17.8 Lobbying. Contractor warrants that it will not engage in lobbying activities as defined in 40 CFR part 34 and A.R.S. § 41-1231, *et seq.*, using monies awarded under the contract. Upon award of the Contract, Contractor shall disclose all lobbying activities to the County to the extent they are an actual or potential conflict of interest or where such activities would create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure that monies awarded under the contract are not used for lobbying. Subcontractors shall be subject to these same provisions. Contractor shall include “anti-lobbying” provisions in all subcontracts. This paragraph does not apply to the extent that the services are defined in the contract as being lobbying for the County’s benefit or on the County’s behalf.
- 17.9 Survival of Rights and Obligations. All representations and warranties made by Contractor under the contract will survive the expiration or earlier termination of the contract. The Contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.

18. COUNTY’S CONTRACTUAL REMEDIES

- 18.1 Right to Assurance. If the County in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the County’s option,

be the basis for terminating the contract under the Terms and Conditions or other rights and remedies available by law or provided by the contract.

- 18.2 Stop Work Order. The County may at any time require Contractor to stop all or any part of the work by written order. Upon receipt of a stop order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to County associated with the portions of the work covered by the order. If Contractor incurs losses, it may make a claim under the Pinal County Procurement Code.
- 18.3 Non-exclusive Remedies. The County's rights and remedies under the contract are not exclusive.
- 18.4 Nonconforming Tender. The materials provided and services performed must comply fully with the contract. Providing materials or performing services or any portion thereof that do not comply fully constitutes a breach of contract, in which event the County will be entitled to exercise any remedy available to it under the contract or laws.
- 18.5 Right to Offset. The County is entitled to offset against any sums due contractor, any expenses or costs the County incurs, or damages the County assessed concerning Contractor's non-conforming performance or failure to carry out the work, including any expenses, costs, and damages to which it is entitled by the contract or laws.

19. CONTRACT TERMINATION

- 19.1 Termination for Conflict of Interest. Pursuant to A.R.S. § 38-511, the County may terminate this contract within three (3) years after the effective date without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is or becomes an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. Any such termination will be effective when Contractor receives the County's written notice of the termination unless the notice specifies a later date. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 19.2 Gratuities. The County may by written notice, terminate the contract in whole or in part if the County determines that employment or a gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of the County for the purpose of influencing the outcome of the procurement or the administration of the contract, or in anticipation of receiving any favorable treatment concerning the contract or performance of the contract. The County, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by Contractor.
- 19.3 Suspension or Debarment. The County may, by written notice to Contractor, terminate the contract immediately if the County discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. The County has taken Contractor's submittal of the accepted offer and will take its performance under the contract as

Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify the Procurement Officer immediately.

- 19.4 Termination for Convenience. The County may terminate the contract when in the best interest of the County, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the contract. Upon receipt of the County's written termination notice, Contractor shall stop work as directed in the notice, notify all subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to the County. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract will become the County's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination.
- 19.5 Termination for Default. In addition to the rights reserved to it under the contract, the County may terminate the contract in whole or in part due to Contractor's failure to:
- a. Comply with any requirement(s), term(s), or condition(s) of the contract;
 - b. Obtain and maintain all required insurance policies, bonds, licenses, and permits;
 - c. Make satisfactory progress in carrying out the work or meeting applicable milestones; or
 - d. Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

20. CONTRACT CLAIMS

- 20.1 Claim Resolution. All claims and controversies shall be subject to the Pinal County Procurement Code.
- 20.2 Arbitration. It is understood and agreed that no provision of any resulting contract shall require arbitration upon the County except by the County's express written consent given subsequent to the execution of the contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. § 12-1501, *et seq.* The Contractor shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.



This agreement and exhibits hereto, as well as any purchase orders issued against this agreement, shall constitute the entire agreement between the parties with respect to the goods or services ordered under this agreement. No amendment to this agreement will be effective or binding upon the parties unless set forth in writing.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PINAL COUNTY
31 N. Pinal Street
Florence, AZ 85132

CIRCULAR EDGE, LLC
399 Campus Drive
Suite 102
Somerset, NJ 08873


BY: Jeff Serdy
(Name)

BY: sAchin cHoudhari
(Name)

Chairman, Pinal County Board of Supervisors
(Title)

CEO
(Title)

(Signature)


(Signature)

DATE: December 6, 2023

DATE: 10/25/2023

Approved as to Legal Content:

 11/9/23
Pinal County Attorney's Office (Date)

Exhibit D
Business Associate Agreement

This Business Associate Agreement (this "Agreement") is entered into between Circular Edge, LLC, ("Business Associate"), and Pinal County ("Covered Entity"), and shall be effective (the "Effective Date") upon the date this Agreement is executed by the Covered Entity.

Covered Entity and Business Associate mutually agree to modify any current or future services agreement executed by and between them in order to incorporate the terms of this Agreement to comply with the requirements of the implementing regulations at 45 Code of Federal Regulations ("C.F.R.") Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

The parties further agree that Business Associate will function as a "business associate" of Covered Entity and Covered Entity will function as a "covered entity" as those terms are defined in 45 C.F.R. §160.103.

1. **DEFINITIONS.** The terms "Electronic Protected Health Information" and "Protected Health Information" have the meanings set out in 45 C.F.R. §160.103. The term "Unsecured Protected Health Information" has the meaning set forth at 45 C.F.R. §164.402. The term "Required by Law" has the meaning set out in 45 C.F.R. §164.103. The term "Treatment" has the meaning set out in 45 C.F.R. §164.501. The term "Authorization" has the meaning set out in 45 C.F.R. §164.508. The term "Subcontractor" has the meaning set out in 45 C.F.R. §160.103. The term "Breach" will have the meaning set out at 45 C.F.R. §164.402. The term "Designated Record Set" will have the meaning set out at 45 C.F.R. §164.501.

2. **PRIVACY OF PROTECTED HEALTH INFORMATION.**
 - 2.1 Permitted Uses and Disclosures. Business Associate is only permitted to use and disclose Protected Health Information, whether in paper form or in electronic form, that it creates or receives from Covered Entity (or another business associate of Covered Entity) ("Covered Entity's Protected Health Information") as follows:
 - a. Functions and Activities on Covered Entity's Behalf. To perform functions, activities, services, and operations on behalf of Covered Entity as specified in the services agreement.
 - b. Covered Entity's Operations. For Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities, provided that, with respect to disclosure of Covered Entity's Protected Health Information, either:
 - 1) The disclosure is Required by Law; or
 - 2) Business Associate obtains reasonable assurance, evidenced by a written contract with terms substantially similar to this Agreement, from any third party person or entity to which Business

Associate will disclose Covered Entity's Protected Health Information that the person or entity will:

- a) Hold Covered Entity's Protected Health Information in confidence and use or further disclose Covered Entity's Protected Health Information only for the purpose for which Business Associate disclosed Covered Entity's Protected Health Information to the person or entity or as Required by Law; and
- b) Promptly notify Business Associate (who will in turn notify Covered Entity in accordance with Sections 4(a) and (b) of this Agreement) of any instance of which the person or entity.

2.2 Minimum Necessary. Business Associate will, in its performance of the functions, activities, services, and operations specified in Section 2(a) above, make best efforts to use, to disclose, and to request of Covered Entity only the minimum amount of Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation with respect to:

- a. Use for or disclosure to an individual who is the subject of Covered Entity's Protected Health Information, or that individual's personal representative;
- b. Use or disclosure made pursuant to an Authorization that is signed by an individual who is the subject of Covered Entity's Protected Health Information to be used or disclosed, or by that individual's personal representative;
- c. Disclosure to the United States Department of Health and Human Services ("DHHS") in accordance with Section 7(a) of this Agreement;
- d. Use or disclosure that is Required by Law; or
- e. Any other use or disclosure that is excepted from the minimum necessary limitation as specified in the Privacy Rule (as hereinafter defined).

2.3 Prohibition on Unauthorized Use or Disclosure. Business Associate will neither use nor disclose Covered Entity's Protected Health Information, except as permitted or required by this Agreement or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Covered Entity's Protected Health Information in a manner that would violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" ("Privacy Rule").

2.4 Information Safeguards.

- a. Privacy of Covered Entity's Protected Health Information. Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Covered Entity's Protected Health Information. The safeguards must reasonably protect



Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

- b. Security of Covered Entity's Protected Health Information. Business Associate will use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Covered Entity's Electronic Health Information, to prevent use or disclosure of that Electronic Protected Health Information other than as provided for by the Agreement.

- 2.5 Subcontractors. Business Associate will require any of its Subcontractors, to which Business Associate is permitted by this Agreement to disclose Covered Entity's Protected Health Information, to agree, as evidenced by written contract with terms substantially similar to those found in this Agreement, that such Subcontractor will comply with the same privacy and security safeguard obligations with respect to Covered Entity's Protected Health Information that are applicable to Business Associate under this Agreement.
- 2.6 Indemnification and Insurance. Business Associate shall indemnify, defend and hold harmless Covered Entity and its directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities, costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind (including court costs, reasonable attorneys' fees, primary loss investigation, judgement costs, expert witness fees, and any and all fees and costs from appellate proceedings), and civil and criminal penalties brought by a third party, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Business Associate's performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement. Business Associate shall obtain no later than one (1) month from Effective Date of this Agreement and maintain during the term of this Agreement liability insurance covering claims based on a violation of the Privacy Rule or any applicable law or regulation concerning the privacy of a patient information and claims based on its obligations pursuant to this Section in an amount not less than \$ 1,000,000 per claim. Such insurance shall be in the form of occurrence-based coverage. A copy of such policy or certificate evidencing the policy shall be provided to Covered Entity upon written notice.

3 INDIVIDUAL RIGHTS.

- 3.1 Access. Business Associate will, within five (5) days following Covered Entity's request, make available to Covered Entity or, at Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies, Covered Entity's Protected Health Information, in a Designated Record Set, about the individual that is in Covered Entity's custody or control.
- 3.2 Amendment. Business Associate will, upon receipt of written notice from Covered Entity, promptly



amend, or permit Covered Entity access to amend, any portion of Covered Entity's Protected Health Information.

3.3 Disclosure Accounting. So that Covered Entity may meet its disclosure accounting obligations under the Privacy Rule:

a. Disclosures Not Subject to Accounting. Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Covered Entity's Protected Health Information that are expressly excluded from such disclosure accounting requirement as set forth at 45 C.F.R. § 164.528(a)(1).

b. Disclosures Subject to Accounting and Necessary Information. Business Associate will record the information specified in Section 3(c)(ii)(A) or (B), as applicable, for each disclosure of Covered Entity's Protected Health Information that Business Associate makes to third party. With respect to any disclosure by Business Associate of Covered Entity's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

1) Disclosure Information Generally. Except for repetitive disclosures of Covered Entity's Protected Health Information as specified in Section 3(c)(ii)(B) below, the Disclosure Information that Business Associate must record for each accountable disclosure is (1) the disclosure date, (2) the name and (if known) address of the entity to which Business Associate made the disclosure, (3) a brief description of Covered Entity's Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure.

2) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of Covered Entity's Protected Health Information that Business Associate makes for a single purpose to the same person or entity, the Disclosure Information that Covered Entity must record is either (1) the Disclosure Information specified in Section 3(c)(ii)(A) above for each accountable disclosure; or (2) the Disclosure Information specified in Section 3(c)(ii)(A) for the first of the repetitive accountable disclosures, the frequency, periodicity, or number of the repetitive accountable disclosures, and the date of the last of the repetitive accountable disclosures.

c. Availability of Disclosure Information. Business Associate will maintain the Disclosure Information for at least six (6) years following the date of the accountable disclosure to which the Disclosure Information relates. Business Associate will make the Disclosure Information available to Covered Entity within thirty (30) days following Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting.

3.4 Restriction Agreements and Confidential Communications. Business Associate will comply with any



agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity's Protected Health Information, or (ii) requires confidential or alternate methods of communication about Covered Entity's Protected Health Information, provided that Covered Entity notifies Business Associate in writing of the restriction or confidential or alternate communication obligations that Covered Entity must follow. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential or alternate communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement.

4. PRIVACY/SECURITY BREACH INVESTIGATIONS & REPORTING.

- 4.1 Business Associate will promptly and thoroughly investigate any suspected Breach of Covered Entity's Unsecured Protected Health Information not permitted by this Agreement or applicable law.
- 4.2 Business Associate will notify Covered Entity regarding a Breach of Covered Entity's Unsecured Protected Health Information ("Covered Entity Privacy Event") without unreasonable delay, but in no event later than three (3) calendar days of discovering that a Breach occurred, regardless if such Covered Entity Privacy Event is discovered by Business Associate or by any Subcontractor of Business Associate. Additionally, Business Associate will use its best efforts to assist with Covered Entity's breach investigation by making a timely written report to Covered Entity on any substantiated investigation of a Covered Entity Privacy Event. Business Associate will include as much of the information described in Sections 4(c) as is available at the time the report is written and will supplement the report with additional information once that information is known.
- 4.3 Business Associate's initial written report concerning a Covered Entity Privacy Event will, at a minimum:
 - a. Identify the names and respective titles of those who conducted the investigation on the part of Business Associate, be delivered on Business Associate's official letterhead, be signed by an officer or director of Business Associate or other responsible person and contain appropriate contact information should Covered Entity need further clarification regarding the content of the report;
 - b. Identify Covered Entity's Protected Health Information (at the individual level) that was subject to the Breach and the date the Breach occurred;
 - c. Identify the date the Breach was discovered by Business Associate;
 - d. Identify the storage medium (e.g. floppy disc, paper record, electronic server) wherein the affected Protected Health Information was housed;
 - e. Identify who committed the Breach of Covered Entity's Protected Health Information and if a disclosure of Covered Entity's Protected Health Information was made, the identity of the person or entity to which that

disclosure was made and the date or dates those disclosures occurred;

- f. Identify what corrective action Business Associate took or will take to prevent further non-permitted uses or disclosures;
- g. Identify what Business Associate did or will do to mitigate any harmful effect of the non-permitted use or disclosure; and
- h. Provide any other information to Covered Entity as Covered Entity may request to fulfill its reporting obligations to an affected individual as required under 45 C.F.R. §164.410.

5. OTHER COVERED ENTITY OBLIGATION. To the extent Business Associate is to carry out Covered Entity's obligation under the Privacy Rule, Business Associate will comply with the requirements applicable to the obligation.

6. TERMINATION OF AGREEMENT.

6.1 Right to Terminate for Breach. Covered Entity may terminate the Agreement if Business Associate has breached any provision of this Agreement. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

6.2 Termination of Agreement on Conclusion of Services Agreement. This Agreement will terminate pursuant to Section 6(a) or upon the termination of the services agreement.

a. Obligations on Termination.

- 1) Return or Destruction of Covered Entity's Protected Health Information as Feasible. Upon termination Business Associate will, if feasible, return to Covered Entity or destroy all of Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information. Business Associate will require any Subcontractor, to which Business Associate has disclosed Covered Entity's Protected Health Information to, if feasible, return to Business Associate (so that Business Associate may return it to Covered Entity) or destroy all of Covered Entity's Protected Health Information in whatever form or medium received from Covered Entity, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information, and certify on oath to Covered Entity that all such information has been returned or destroyed. Covered Entity will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or other conclusion of the Agreement.

- 2) Procedure When Return or Destruction Is Not Feasible. Business Associate will identify any of Covered Entity's Protected Health Information, including any that Business Associate has disclosed to Subcontractors of this Agreement, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will, by its written contract with any Subcontractor to which Business Associate discloses Covered Entity's Protected Health Information require such Subcontractor to limit its further use or disclosure of Covered Entity's Protected Health Information that such Subcontractor cannot feasibly return or destroy to those purposes that make the return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or other conclusion of the Agreement.

- 3) Continuing Privacy and Security Obligation. Business Associate's obligation to protect the privacy and safeguard the security of Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of the Agreement and this Agreement.

7. GENERAL PROVISIONS.

- 7.1 Inspection of Internal Practices, Books, and Records. Business Associate will make its internal practices, books, and records relating to its use and disclosure of Covered Entity's Protected Health Information available to Covered Entity and to DHHS to determine Covered Entity's compliance with the Privacy Rule.

- 7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of HIPAA and any other applicable law.

- 7.3 Conflicts. The terms and conditions of this Agreement will override and control any conflicting term or condition of any services agreement. All non-conflicting terms and conditions of the services agreement remain in full force and effect.



In Witness Whereof, Business Associate and Covered Entity have caused this Addendum to be signed and delivered by their duly authorized representatives, as of the date set forth above.

PINAL COUNTY

CIRCULAR EDGE, LLC

“Covered Entity”

“Business Associate”

BY: Jeff Serdy

BY: sAchin cHoudhari

(Name)

(Name)

Chairman, Pinal County Board of Supervisors

CEO

(Title)

(Title)

A handwritten signature in black ink, appearing to read "sAchin cHoudhari", written over a horizontal line.

(Signature)

(Signature)

EFFECTIVE DATE: December 6, 2023

DATE: 10/25/2023

Contract 233028RFP
Oracle JD Edwards EnterpriseOne Consulting Services

THIS CONTRACT is entered into by and between Pinal County, ("County"), whose primary address is 31 N. Pinal St., Bldg. A., Florence, AZ 85132 and ERP-One Consulting Inc., ("Contractor"), whose primary address is Unit 303, 535 10 Avenue SW, Calgary, AB T2R 0A8.

1. **CONTRACT TERM.** The resultant contract term will commence upon contract execution, and will continue for one (1) year unless canceled, terminated, renewed, or permissibly extended. The County has no obligation to extend or renew the contract past the initial term.
2. **CONTRACT EXTENSION.** The County, at its sole discretion, shall have the option to extend the term of this contract up to a maximum of four (4) additional one-year terms, or at the County's sole discretion, extend the contract on a month to month basis for a maximum of nine (9) months after expiration.
3. **CONTRACT TYPE.**

Contracted Labor Rates. The contracted labor rates are the fully-burdened and marked-up billing rates for Contractor's labor scheduled in the requested Pricing Document (Attachment B-7), which rates are deemed to be inclusive of the actual gross wages plus all applicable payroll taxes, non-payroll employer burden, workers' compensation contributions and health and welfare benefit contributions; retirement or other pension contributions, vacation, sick time or other paid leave allowances and the like; all required home office support, corporate or subordinate licenses or registrations, corporate insurance, professional association fees, advertising, time and travel by any of Contractor's personnel other than billable personnel and any bonuses or other incentives for all personnel (including billable personnel); all insurance coverages to be provided by Contractor under the contract; and profit.

4. **PRICING**

4.1 Most Favored Customer Pricing.

Contractor warrants that, for the term of the contract, the prices, rates, discounts, terms, and benefits set out in the proposal, including any subsequent agreed upon amendment to it, will be equal to or better than the lowest prices, best rates, largest discounts, and most favorable terms and benefits, both separately and in combination, at which Contractor sells equivalent items. If Contractor provides more favorable pricing, rates, discounts, terms and benefits to any customer, it shall immediately apply all such pricing, rates, discounts, terms and benefits to pending County purchase orders and offer such pricing, rates, discounts, terms and benefits for all future purchases made by the County.

4.2 All-Inclusive Pricing.

Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's proposal as accepted by the County. Details of service not explicitly stated in the Scope of Work or in Contractor's proposal, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and

profit and any other costs toward the accomplishment of the requirements in the contract are included in the pricing provided.

4.3 Price Reductions and Sales Promotions.

Price reductions may be submitted to or requested by the County for consideration at any time during the life of the contract. Promotions or reductions to sell existing inventory/stock and to include special manufacturer assistance are allowable.

4.4 Price Increase.

The Procurement Officer may review a fully documented request for a rate increase only after the contract has been in effect for two (2) years. ~~Any requested rate increase(s) shall be based on an unmitigatable cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the cost of the goods or services contractually covered.~~

Any request for rate increase will only be considered at the time of a contract extension and must be submitted ninety (90) days prior to the adjustment. ~~Any request for rate increase shall not exceed the Consumer Price Index (CPI) rate for July of that calendar year in the "All items less food or energy" category. For the purposes of this contract, the current rate for the CPI is understood to be taken from the following url: <https://www.bls.gov/charts/consumer-price-index/consumer-price-index-by-category.htm>.~~

Any request for rate increase shall be a factor in the extension review process and if approved, be implemented by a formal contract change order. The County will have the right to request and receive additional information, statistics, financial records etc., and to direct the content, form, and format of presentation as it deems necessary to validate the Contractor's request for a rate adjustment. Failure to respond to the County's request within the time frames specified will nullify the Contractor's request. The County will determine whether the requested rate increase or alternate option is in its best interest and adjustments will be subject to availability of monies appropriated, if applicable.

4.5 Delivery.

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery costs and unloading at the destination.

4.6 Change Orders.

In the event the County requires any change(s) to the Scope of Work and the Contractor anticipates that the project's approved price may be exceeded as a result of the change, the Contractor shall submit a revised project cost estimate to the requesting department.

The Contractor shall not exceed an approved project's price without written preapproval by the requesting department. If preapproval is not received, the Contractor may be subject to sanctions. The revised project price proposal shall include the following:

- a. Changes and/or adjustments caused by the County's change to the Scope of Work for the project, including any adjustments to timeframes for completion of the project.
- b. An all-inclusive project price estimate, supported by a detailed cost breakdown to include all costs required to complete the project, as changed by the County.

4.7 Travel. N/A

5. INVOICING AND PAYMENTS.

5.1 Invoices.

The Contractor shall submit detailed, itemized monthly invoices before payment(s) can be made. Incomplete invoices will not be processed and will be rejected. All invoices shall reflect the contracted prices or rates for goods or services as described in the Scope of Work. At a minimum, the invoice must provide the following information:

- a. Company name, address and contact
- b. County bill-to name and contact information
- c. Contract Number
- d. County purchase order number
- e. Invoice number and date
- f. Payment terms
- g. Itemized service price as outlined in the Price Sheet (Attachment B-7)

Problems regarding billing or invoicing shall be directed to the using department as listed on the Purchase Order. All invoices must be submitted to the following e-mail or postal address:

Pinal County Finance Department
Attn: Accounts Payable
PO Box 1348
Florence, AZ 85132
financeinvoices@pinal.gov

5.2 Milestones and Retainage.

N/A

5.3 No Invoice Without Authorization. Contractor shall not seek payment for any:

- a. Charges or fees not delineated in the contract.
- b. Materials or services that have not been authorized on a purchase order.
- c. Expediting, overtime, premiums, or upcharges absent the County's express written prior approval.
- d. Materials or services that are the subject of a contract amendment or change order that has not been fully signed.

5.4 Timeliness of Invoice. By A.R.S. § 11-622, all invoices must be submitted to the County within six (6) months after service or product is received. Failure to submit an invoice within this period of time will result in non-payment.

5.5 Payments. No payment shall be issued prior to receipt of acceptable goods and/or services and a correct invoice. The County shall make every effort to process payment for acceptable goods or services within thirty (30) calendar days after receipt of said items/services and a correct invoice.

- 5.6 Payments Only to Contractor. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, the County will only make payment to Contractor under the federal tax identifier indicated on the accepted offer.
- 5.7 Payments to Subcontractors. Contractor shall make payment of all undisputed amounts due to Subcontractors, as applicable to their services, within thirty (30) days of receipt of funds from the County.
- 5.8 Availability of Funds. By A.R.S. § 35-154, every County payment obligation under the contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the contract, the County may terminate the contract at the end of the period for which funds are available, or, at County's discretion, allow appropriate amendment to the contract. No liability will accrue to County if it exercises the foregoing right or discretion, and County will have no obligation or liability for any future payments or for any damages as a result of having exercised it.
6. ARIZONA LAW. This contract shall be governed by the law of the State of Arizona and suits pertaining to this contract shall be brought only in the Pinal County Superior Court, Florence, Arizona.
7. IMPLIED LAW. Each provision of law and any terms required by law to be in this contract shall be deemed an integrated part of this contract as if fully stated herein.
8. PUBLIC RECORD. This contract is a public record and must be retained by the County for a minimum of six (6) years. All contracts are open to public inspection after contract award, except for any portions determined to be confidential by the County.
9. CONTRACT ORDER OF PRECEDENCE. All of the documents forming the contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the work as though the relevant work, requirements, obligations, or duties had been fully described on all, consistent with the other documents forming the contract and as is reasonably inferable from them as being necessary to produce complete results. In case of any inconsistency, conflict, or ambiguity among the documents forming the contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.
- a. Written Contract Amendments
 - b. Contract
 - c. Contract Exhibit(s) A (i.e. Contracted Scope of Work)
 - d. Contract Exhibit(s) B (i.e. Contract Pricing Documents)
 - e. Contract Exhibit(s) C (i.e. Responder's Proposal Documents)
 - f. Other Contract Exhibits
 - g. Orders, in reverse chronological order

10. **RELATIONSHIP OF THE PARTIES.** The Contractor under this contract is an independent Contractor and shall act in an independent capacity in performance under the contract. Neither party is or is to be construed as being an employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.
11. **SEVERABILITY.** Any term or condition deemed or found illegal or invalid is thereby stricken from the contract and shall not affect any other term or condition of the contract.
12. **NO PAROLE EVIDENCE.** The contract, including any documents incorporated into the contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the contract.
13. **NO WAIVER.** Either party’s failure to insist on strict performance of any term or condition of the contract is not, or will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of right of, enforcement of any term or condition.
14. **CONTRACT ADMINISTRATION AND OPERATION.**

14.1 Notices and Correspondence. Notices required by this Contract shall be made to the following addresses:

County	Contractor
Name: Pinal County Purchasing Division Attn: Tiara Peterson	Name: ERP-One Consulting Inc. Attn: Matt Vanderkooy
Address: PO Box 1348 Florence, AZ 85132	Address: Unit 303, 535 10 Avenue SW Calgary, AB T2R 0A8
Title: Purchasing Manager	Title: Chief Revenue Officer
Email: Purchasing@Pinal.gov	Email: matt.vanderkooy@erp-one.com

An authorized County representative and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the contract shall not be necessary.

14.2 Click-Through Terms and Conditions. If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the contract (each an “Electronic Ordering System”), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of the County do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the contract. Accordingly, where an authorized County user is required to “click through” or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation and non-binding upon the County. Additionally, where an authorized County user is required to accept or be made subject to any



terms and conditions in accessing or employing any materials or services, those terms and conditions will also be void and non-binding.

- 14.3 Books and Records. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each of its Subcontractor to retain books and records *relating for any cost and pricing data submitted* in satisfaction of § 41-2543 for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records *relating to performance under the contract* for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Accordingly, Contractor or Subcontractor shall either make all such books and records available to the County at all reasonable times or produce the records at a designated County office on the County’s demand, the choice of which being at the County’s discretion. For the purpose of this paragraph, “reasonable times” are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. The Contractor and/or Subcontractor shall produce the requested records within the prescribed statutory timeframe or within fourteen (14) days which ever is longer.
- 14.4 Contractor Licenses. Contractor and Subcontractor(s) shall maintain in current status all federal, state, and local licenses and permits required for the operation of its business in general, for its operations under the contract, and if required by this contract, the work itself.
- 14.5 Inspection and Testing. Per A.R.S. § 41-2547, the County may at reasonable times inspect the part of Contractor’s or Subcontractors’ plant(s) or places of business related to performance under the contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. The County may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the contract or that will be incorporated into something to be supplied under the contract. If the inspection or testing shows non-conformance or defects, the Contractor will owe the County reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by the County of those items.
- 14.6 Acceptance of Work.
- a. Materials. The County has the right to make acceptance of materials subject to a complete inspection on delivery and installation, if installation is Contractor’s responsibility. The County may apply as acceptance criteria conformity to the contract, workmanship and quality, whether the constituent materials used are correct, and any other matter for which the contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected materials from the delivery location, or from any immediate locations to which it might have been reasonably necessary to move it, then inspect it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. The County will not owe Contractor any payment for rejected materials, and the County may, at its

discretion, withhold or make partial payment for any rejected materials that have been returned to Contractor in those instances where the County has agreed to permit repair instead of demanding replacement. In the case that materials are accepted and then later deemed to not conform to the acceptance criteria of the contract the Contractor shall provided either a credit for the non-conforming materials or provided conforming materials at no additional cost to the County within a reasonable timeframe.

- b. Services. The County has the right to make acceptance of services subject to acceptance criteria. The County may apply as acceptance criteria conformity to the contract, accuracy, completeness, or other indicators of quality, or any other matter for which the contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. The County will not owe Contractor any payment for un-accepted services; and the County may, at its discretion, withhold or make partial payment for any rejected services if Contractor is still in the process of re-performing or otherwise curing the grounds for the County's rejection.

14.7 Ownership of Intellectual Property.

- a. Rights in Work Product. Unless otherwise noted in the terms and conditions of this contract, all intellectual property originated or prepared by Contractor pursuant to the contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the contract, shall be considered work product and shall be the exclusive property of Contractor, provided that County has Government Purpose Rights to that work product as and when it was delivered to County.
 - (1) "Government Purpose Rights" are: (i) the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which the County is a party; (ii) the right to release or disclose that work product to third parties for any County purpose; and (iii) the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any County purpose; such recipients being understood to include the federal government, the state government, and various local governments.
 - (2) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.
- b. Joint Developments. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

- c. **Pre-Existing Material.** All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the contract or applicable purchase orders are not part of the work product to which rights are granted as stated above, and will remain the exclusive property of Contractor, provided that:
 - (1) Any derivative works of such pre-existing material or elements thereof that are created pursuant to the contract are part of that work product;
 - (2) Any elements of derivative work of such pre-existing material that was not created pursuant to the contract are not part of that work product; and
 - (3) Except as expressly stated otherwise in the contract, nothing in the contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.
- d. **Developments Outside of Contract.** Unless expressly stated otherwise in the Terms and Conditions, the contract does not preclude Contractor from developing competing materials outside the contract, irrespective of any similarity to materials delivered or to be delivered to the County hereunder.

14.8 **Subcontracts.** The Contractor shall not enter into any subcontract under this contract for the performance of this contract without the advance written notice to the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. It is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees or agents of the Contractor and not the County. Nothing contained in any contract or joint venture agreement shall create any contractual relationships between any subcontractor and County, nor shall the same create any obligation on the part of the County to pay any subcontractor. The subcontract shall incorporate by reference the terms and conditions of this contract.

14.9 **Non-Discrimination.** Contractor shall comply with the State of Arizona Executive Order No. 2009-09 and all other applicable federal, state and local laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.

14.10 **E-Verify Requirements.** As required by A.R.S. § 41-4401, Contractor and each subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each subcontractor acknowledge that under A.R.S. § 41-4401, the County retains the legal right to inspect the papers of any Contractor or subcontractor employee who works under the contract to ensure that Contractor or subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.

14.11 **Offshore Performance of Certain Work Prohibited.** Any services that are described in the specifications or Scope of Work that directly serve the County or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services, services performed through remote access to the County network, or services

that are incidental to the performance of the contract. This provision applies to work performed by Subcontractors at all tiers. Responders shall declare all anticipated offshore services in the proposal.

- 14.12 Estimated Quantities. Unless expressly stated otherwise in the solicitation, the (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on orders; (b) County makes no commitment of any kind concerning the quantity or monetary value of activity, work or services actually initiated or completed during the term of the contract; (c) Contractor shall only deliver or perform as authorized by orders; and (d) County is not limited as to the number of orders it may issue for the contract.
- 14.13 Non-Exclusivity. This contract is entered into with the understanding and agreement that it is for the sole convenience of Pinal County. The County reserves the right to obtain like materials or services from another source when necessary without penalty or obligation. The County reserves the right to make additional awards by aggregate, line item, regional area, or any other division of goods and services as determined to be in the best interest of the County.
- 14.14 Additions and Deletions to Contract. The County reserves the right to add and/or delete goods or services to the Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required for a contract, prices for such additions will be negotiated between the Contractor and the County.
- 14.15 Applicable Taxes. The Contractor shall be responsible for paying all applicable taxes. Pinal County is subject to all applicable state and local transaction privilege taxes. The County is exempt from certain federal excise tax on manufactured goods. The County will provide the necessary exemption certificates as evidence. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with County unless not required by law.
- 14.16 Eligible Agencies. This contract shall be for the exclusive use of Pinal County.
- 14.17 Transitions. During commencement of the contract the Contractor shall attend transition meetings with outgoing suppliers as requested by the County to coordinate efforts, ease the transition, and minimize disruption in the County's operations. The County may elect to have outgoing suppliers complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible, even if that scope is covered under the contract with the new supplier. Conversely, the County anticipates having a continued need for the same materials and services upon expiration or earlier termination of the contract. Accordingly, Contractor shall work closely with any new (incoming) supplier and the County to ensure a smooth and complete transfer. The County's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both the existing Contractor and the

incoming supplier. During the outgoing transition, the County may elect to have the outgoing Contractor complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible.

- 14.18 Other Contractors. The County may undertake with its own resources or through award of other contracts to the same or other suppliers, additional or related work. In such cases, the Contractor shall cooperate fully with the County's employees and other suppliers and carefully fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the contract requires handing-off Contractor's work to others, Contractor shall cooperate as the County instructs regarding the necessary transfer of its work product, services, or records to the County or the other suppliers. Contractor shall not commit or permit any act that interferes with the County's or other suppliers' performance of their work, provided that, the County shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 14.19 Work on County Premises.
- a. Compliance with Rules. Contractor is responsible for ensuring that its personnel comply with County's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing materials or performing services on County grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the contract. Contractor is reminded that violation under Pinal County Security policy 2.10 to possess a firearm, ammunition, or an explosive device in a County building is a material breach of contract and grounds for termination for default.
 - b. Protection of Facilities and Grounds. Contractor shall deliver or install the materials and perform the services without damaging any County facilities or grounds. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions the County needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, the County will be entitled to exercise its remedies under paragraph 17.5 "Right to Offset."
- 14.20 Advertising, Publishing, and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this contract without the prior written approval of the Procurement Officer.
- 14.21 Israel Boycott Prohibited. **Pursuant to A.R.S. § 35-393.01(A) and to the extent allowable by law**, if the Contractor engages in for-profit activity and has ten (10) or more employees, and if this agreement has a value of \$100,000 or more, the Contractor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.



14.22 Use of Forced Labor of Ethnic Uyghurs Prohibited. Pursuant to A.R.S. § 35-394, the use of forced labor, any goods produced by forced labor or contractors or subcontractors that utilize the forced labor of Ethnic Uyghurs in the People’s Republic of China is prohibited. Written certification that the contractor complies with this provision shall be submitted to the County. If written certification has been submitted, and the contractor later determines that it is not in compliance with this provision, it shall notify the County within five (5) business days. If the County does not receive notification that within one hundred and eighty (180) days of finding the violation, the company has remedied the violation of this section, the contract will terminate. If the contract naturally or otherwise terminates before the end of the one hundred and eighty (180) day remedy period, the contract terminates on the contract termination date.

15. CONTRACT CHANGES.

15.1 Contract Amendments. The contract is issued under the authority of the Pinal County Board of Supervisors. Only a contract amendment can modify the contract and then only if it does not change the contract's general scope. Purported changes to the contract by a person not expressly authorized by the Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the contract based on any such purported changes.

15.2 Signing of Contract Amendments. Contractor’s counter-signature (or “approval”) of contract modifications is not required to give effect if the contract amendment only covers either:

- a. Extension of the term of the contract within the maximum aggregate term;
- b. Revision to Procurement Officer appointment or contact information; or
- c. Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the contract.

In every case other than those listed in a, b, and c above, both parties’ signature (or “approval”) of a contract modification is required to give it effect.

15.3 Assignment and Delegation. Contractor shall not assign in whole its rights or delegate in whole its duties under the contract without the Procurement Officer’s prior written consent, which consent the Procurement Officer may withhold at his or her discretion. The Procurement Officer shall not unreasonably withhold approval of assignment or delegation. If Contractor’s proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving County satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when County first awarded it the contract. This contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto.

16. RISKS AND LIABILITIES

16.1 Risk of Loss. Contractor bears all risk of loss to materials while in pre-production, production, storage transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the Scope of the Work, until they have been received and accepted as conforming by the County at the location

designated in the purchase order or contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

- 16.2 Contractor Insurance. The Contractor and any tier of Subcontractor shall purchase and maintain insurance, until all of their obligations have been discharged including any warranty periods under this contract, against claims for injury to persons or damage to property which may arise from or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees, or Subcontractors. Failure to do so may, at the sole discretion of the County, constitute a material breach of the contract.

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

- a. **Minimum Scope and Limits of Insurance**. Contractor shall purchase and maintain coverage with coverages and limits of liability not less than those stated below.

- (1) **Commercial General Liability (CGL)**. Commercial General Liability (CGL) Insurance (CG 0001) and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 General Aggregate Limit, and \$2,000,000 Completed Operations/Products Aggregate. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. The additional insured endorsement shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor's work or service.

- (2) **Automobile Liability**. Commercial/Business Automobile Liability insurance with a combined single limit (CSL) for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this contract.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor,

involving automobiles owned, leased, hired and/or non-owned by the Contractor, and shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor’s work or service.

(3) Workers’ Compensation and Employer’s Liability.

Workers’ Compensation	Statutory
Employer’s Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Policy shall contain a waiver of subrogation against Pinal County and its officers, officials, agents, and employees for losses arising from work or service performed by or on behalf of the Contractor. This requirement shall not apply to each Contractor this is exempt under A.R.S. 23-902 (E), and when such Contractor executes the appropriate sole proprietor waiver form.

(4) Professional Errors and Omissions Liability. Coverage shall be for minimum amounts of \$2,000,000 per claim and \$5,000,000 annual aggregate.

(5) Technology or Cyber Liability. Technology or Cyber Liability insurance with a minimum of \$2,000,000 per claim and \$5,000,000 aggregate. Insurance shall include coverage for cloud computing and mobile devices, protection of private or confidential information, network security and privacy, liability for system attacks, digital asset loss, denial or loss of service, unauthorized access and use, as well as introduction, implantation or spread of malicious software code.

b. Additional Insurance Requirements. The policies shall include, or be endorsed to include the following provisions:

(1) The Contractor’s policies, as applicable, shall be primary and non contributory to insurance or self-insurance carried by the County, it’s agents, officials, or employees.

(2) Insurance provided by the Contractor shall not limit the Contractor’s liability assumed under the indemnification provisions of this contract.

c. Notice of Cancellation. Applicable to all insurance policies required within the insurance requirements of this contract, Contractor’s insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the County.



- d. **Acceptability of Insurers.** Contractor shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best rating of not less than A-6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of the County. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- e. **Verification of Coverage.** Contractor shall furnish the County with certificates of insurance or formal endorsements as required by the contract at least fourteen (14) calendar days prior to commencing work or services under the contract. Such certificates shall identify this contract number and project description and shall be sent directly to the attention of Pinal County Purchasing Department. In the event any insurance policy(ies) required by this contract are written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Contractor’s work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life of the contract, a renewal certificate must be sent to the County a minimum of fourteen (14) calendar days prior to the expiration date. The form of any insurance policies, limits, endorsements and forms must be acceptable to the County. The County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County’s right to insist on strict fulfillment of Contractor’s obligations under this Contract.
- f. **Subcontractors.** All coverages for all tiers of Subcontractors shall be subject to the minimum insurance requirements identified above. The County reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its Subcontractors have the required coverage.
- g. **Approval and Modifications.** The County 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.

16.3 **Basic Indemnification.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County indemnitees from indemnified basic claims that:

- a. Are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor indemnitor;
- b. Arise out of or are recovered under workers’ compensation laws; and/or
- c. Arise out of a Contractor indemnitor’s failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor indemnitors shall indemnify the relevant County indemnitees from and against indemnified basic claims in all instances except where the indemnified basic claim arises solely from those County indemnitees’ own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for and on behalf of the other Contractor indemnitors with respect to County indemnitees, and accordingly



Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor indemnitors. In consideration of the award of the contract by a County indemnitee, Contractor hereby waives all rights of subrogation against County indemnities for losses arising from the work.

- d. It is the specific intention of the County and the Contractor that the County shall, in all instances, except for the gross negligent or willful acts of the County, be indemnified, defended and held harmless by the Contractor from and against any all demands, claims, suits, losses, and damages.

16.4 Public Health Information Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County and its supervisors, directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities (“Indemnitees”), costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind, including but not limited to, personal injury or property damage, loss or injury, including death, violations of HIPAA (including court costs and reasonable attorneys’ fees) brought by a third party, arising from or relating to the acts or omissions of Contractor or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Contractor’s performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement.

16.5 Patent and Copyright Indemnification. With respect to materials or services provided or proposed by a Contractor indemnitor for performance under the contract, Contractor shall indemnify, defend and hold harmless County indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the materials and the services. With respect to the defense and payment of claims under this subparagraph:

- a. County shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
- b. Contractor, with reasonable consultation from County shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
- c. County may elect to participate in such action at its own expense; and
- d. County may approve or disapprove any settlement or compromise, provided that the County shall not unreasonably withhold or delay such approval or disapproval; and the County shall cooperate in the defense and in any related settlement negotiations.

16.6 Force Majeure.

- a. Relief From Performance. The parties are not liable to each other if an occurrence of force majeure prevents its performance under the contract. If either party is delayed at any time in the progress of its performance under the contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not

readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties will extend the time of completion by contract amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

- b. Excusable Delay is Not a Default. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.
- c. Default Diminishes Relief. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case the other party's normal remedies and the affected party's obligations would apply undiminished.

16.7 Third Party Antitrust Violations. The Contractor assigns to the County any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this contract.

17. WARRANTIES

17.1 Liens. Contractor warrants that the materials and services when accepted will be and will remain free of liens or other encumbrances.

17.2 Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the contract, the materials and services will for one (1) year after acceptance and in each instance:

- a. Conform to the requirements of the contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the contract;
- b. Be free from defects of material and workmanship;
- c. Conform to or perform in a manner consistent with current industry standards; and
- d. Be fit for the intended purpose or use described in the contract.

Mere delivery or performance does not substitute for express acceptance by County. Where inspection, testing, or other acceptance assessment of materials or services cannot be done until after installation, the forgoing warranty will not begin until County's acceptance.

17.3 Product Safety. Materials as shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, the County is not responsible for making any materials safe

or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

17.4 Contractor Personnel. Contractor warrants that its personnel will perform their duties under the contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to the County upon request.

17.5 Data Protection and Confidentiality of Records.

a. **Proprietary and Sensitive Data.** Contractor warrants that it will establish and maintain procedures and controls acceptable to the County for ensuring that the County's proprietary and sensitive data is protected from unauthorized access and information obtained from County or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the contract, provided to the Contractor by the County or prepared by others for the County are proprietary to the County and all information by those same avenues is the County's confidential information. To comply with the foregoing warrant:

- (1) Contractor shall: (i) notify the County immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (ii) cooperate with the County to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (iii) notify the County promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
- (2) Contractor shall not: (i) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the contract, unless the County has agreed otherwise in advance and in writing; or (ii) respond to any requests it receives from a third party for such data or information, and instead route all such requests to the County's designated representative.

b. **Personally Identifiable Information.** Contractor warrants that it will protect any personally identifiable information ("PII") belonging to the County's employees' or other Contractors or members of the general public that it receives from the County or otherwise acquires in its performance under the contract. (For purposes of this paragraph PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information.)

NOTE: For convenience of reference only, the OMB memorandum is available at:

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2007/m07-16.pdf>.

NOTE: For convenience of reference only, the GSA directive is available at:

<http://www.gsa.gov/portal/directive/d0/content/658222>



- c. Protected Health Information. Contractor warrants that, to the extent performance under the contract involves individually identifiable health information (referred to hereinafter as protected health information (“PHI”) and electronic PHI (“ePHI”) as defined in the Privacy Rule referred to below), it:
- (1) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (i) the “Privacy Rule” in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996; (ii) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 (“ERISA”) as amended; and (iii) the County’s current and published PHI/ePHI privacy and security policies and procedures;
 - (2) Will cooperate with the County in the course of performing under the contract so that both the County and Contractor stay in compliance with the requirements above and will sign any documents that are reasonably necessary to keep both the County and Contractor in compliance with the requirements above, in particular “Business Associate Agreements” in accordance with the Privacy Rule. NOTE: For convenience of reference only, the Privacy Rule is available at: <http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>
- 17.6 Intellectual Property. Contractor warrants that the materials and services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 17.7 Compliance with Applicable Laws, Licensing and Permits. Contractor warrants that the materials and services supplied under this Contract do and will continue to comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 17.8 Lobbying. Contractor warrants that it will not engage in lobbying activities as defined in 40 CFR part 34 and A.R.S. § 41-1231, *et seq.*, using monies awarded under the contract. Upon award of the Contract, Contractor shall disclose all lobbying activities to the County to the extent they are an actual or potential conflict of interest or where such activities would create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure that monies awarded under the contract are not used for lobbying. Subcontractors shall be subject to these same provisions. Contractor shall include “anti-lobbying” provisions in all subcontracts. This paragraph does not apply to the extent that the services are defined in the contract as being lobbying for the County’s benefit or on the County’s behalf.
- 17.9 Survival of Rights and Obligations. All representations and warranties made by Contractor under the contract will survive the expiration or earlier termination of the contract. The Contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.

18. COUNTY'S CONTRACTUAL REMEDIES

- 18.1 Right to Assurance. If the County in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the County's option, be the basis for terminating the contract under the Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 18.2 Stop Work Order. The County may at any time require Contractor to stop all or any part of the work by written order. Upon receipt of a stop order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to County associated with the portions of the work covered by the order. If Contractor incurs losses, it may make a claim under the Pinal County Procurement Code.
- 18.3 Non-exclusive Remedies. The County's rights and remedies under the contract are not exclusive.
- 18.4 Nonconforming Tender. The materials provided and services performed must comply fully with the contract. Providing materials or performing services or any portion thereof that do not comply fully constitutes a breach of contract, in which event the County will be entitled to exercise any remedy available to it under the contract or laws.
- 18.5 Right to Offset. The County is entitled to offset against any sums due contractor, any expenses or costs the County incurs, or damages the County assessed concerning Contractor's non-conforming performance or failure to carry out the work, including any expenses, costs, and damages to which it is entitled by the contract or laws.

19. CONTRACT TERMINATION

- 19.1 Termination for Conflict of Interest. Pursuant to A.R.S. § 38-511, the County may terminate this contract within three (3) years after the effective date without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is or becomes an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. Any such termination will be effective when Contractor receives the County's written notice of the termination unless the notice specifies a later date. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 19.2 Gratuities. The County may by written notice, terminate the contract in whole or in part if the County determines that employment or a gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of the County for the purpose of influencing the outcome of the procurement or the administration of the contract, or in anticipation of receiving any favorable treatment concerning the contract or performance of the contract. The County, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by Contractor.

- 19.3 Suspension or Debarment. The County may, by written notice to Contractor, terminate the contract immediately if the County discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. The County has taken Contractor's submittal of the accepted offer and will take its performance under the contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify the Procurement Officer immediately.
- 19.4 Termination for Convenience. The County may terminate the contract when in the best interest of the County, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the contract. Upon receipt of the County's written termination notice, Contractor shall stop work as directed in the notice, notify all subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to the County. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract will become the County's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination.
- 19.5 Termination for Default. In addition to the rights reserved to it under the contract, the County may terminate the contract in whole or in part due to Contractor's failure to:
- a. Comply with any requirement(s), term(s), or condition(s) of the contract;
 - b. Obtain and maintain all required insurance policies, bonds, licenses, and permits;
 - c. Make satisfactory progress in carrying out the work or meeting applicable milestones; or
 - d. Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

20. CONTRACT CLAIMS

- 20.1 Claim Resolution. All claims and controversies shall be subject to the Pinal County Procurement Code.



- 20.2 Arbitration. It is understood and agreed that no provision of any resulting contract shall require arbitration upon the County except by the County's express written consent given subsequent to the execution of the contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. § 12-1501, *et seq.* The Contractor shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.



This agreement and exhibits hereto, as well as any purchase orders issued against this agreement, shall constitute the entire agreement between the parties with respect to the goods or services ordered under this agreement. No amendment to this agreement will be effective or binding upon the parties unless set forth in writing.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PINAL COUNTY
31 N. Pinal Street
Florence, AZ 85132

ERP-ONE CONSULTING INC
Unit 303, 535 10 Avenue SW
Calgary, AB T2R 0A8

BY: Jeff Serdy
(Name)

BY: Matt Vanderkooy
(Name)

Chairman, Pinal County Board of Supervisors
(Title)

Chief Revenue Officer
(Title)

(Signature)

(Signature)

DATE: December 6, 2023

DATE: November 3, 2023

Approved as to Legal Content:

(Signature) 11/9/23
Pinal County Attorney's Office (Date)

Exhibit D
Business Associate Agreement

This Business Associate Agreement (this "Agreement") is entered into between ERP-One Consulting Inc., ("Business Associate"), and Pinal County ("Covered Entity"), and shall be effective (the "Effective Date") upon the date this Agreement is executed by the Covered Entity.

Covered Entity and Business Associate mutually agree to modify any current or future services agreement executed by and between them in order to incorporate the terms of this Agreement to comply with the requirements of the implementing regulations at 45 Code of Federal Regulations ("C.F.R.") Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

The parties further agree that Business Associate will function as a "business associate" of Covered Entity and Covered Entity will function as a "covered entity" as those terms are defined in 45 C.F.R. §160.103.

1. **DEFINITIONS.** The terms "Electronic Protected Health Information" and "Protected Health Information" have the meanings set out in 45 C.F.R. §160.103. The term "Unsecured Protected Health Information" has the meaning set forth at 45 C.F.R. §164.402. The term "Required by Law" has the meaning set out in 45 C.F.R. §164.103. The term "Treatment" has the meaning set out in 45 C.F.R. §164.501. The term "Authorization" has the meaning set out in 45 C.F.R. §164.508. The term "Subcontractor" has the meaning set out in 45 C.F.R. §160.103. The term "Breach" will have the meaning set out at 45 C.F.R. §164.402. The term "Designated Record Set" will have the meaning set out at 45 C.F.R. §164.501.

2. **PRIVACY OF PROTECTED HEALTH INFORMATION.**
 - 2.1 Permitted Uses and Disclosures. Business Associate is only permitted to use and disclose Protected Health Information, whether in paper form or in electronic form, that it creates or receives from Covered Entity (or another business associate of Covered Entity) ("Covered Entity's Protected Health Information") as follows:
 - a. Functions and Activities on Covered Entity's Behalf. To perform functions, activities, services, and operations on behalf of Covered Entity as specified in the services agreement.
 - b. Covered Entity's Operations. For Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities, provided that, with respect to disclosure of Covered Entity's Protected Health Information, either:
 - 1) The disclosure is Required by Law; or
 - 2) Business Associate obtains reasonable assurance, evidenced by a written contract with terms substantially similar to this Agreement, from any third party person or entity to which Business



Associate will disclose Covered Entity's Protected Health Information that the person or entity will:

- a) Hold Covered Entity's Protected Health Information in confidence and use or further disclose Covered Entity's Protected Health Information only for the purpose for which Business Associate disclosed Covered Entity's Protected Health Information to the person or entity or as Required by Law; and
- b) Promptly notify Business Associate (who will in turn notify Covered Entity in accordance with Sections 4(a) and (b) of this Agreement) of any instance of which the person or entity.

2.2 Minimum Necessary. Business Associate will, in its performance of the functions, activities, services, and operations specified in Section 2(a) above, make best efforts to use, to disclose, and to request of Covered Entity only the minimum amount of Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation with respect to:

- a. Use for or disclosure to an individual who is the subject of Covered Entity's Protected Health Information, or that individual's personal representative;
- b. Use or disclosure made pursuant to an Authorization that is signed by an individual who is the subject of Covered Entity's Protected Health Information to be used or disclosed, or by that individual's personal representative;
- c. Disclosure to the United States Department of Health and Human Services ("DHHS") in accordance with Section 7(a) of this Agreement;
- d. Use or disclosure that is Required by Law; or
- e. Any other use or disclosure that is excepted from the minimum necessary limitation as specified in the Privacy Rule (as hereinafter defined).

2.3 Prohibition on Unauthorized Use or Disclosure. Business Associate will neither use nor disclose Covered Entity's Protected Health Information, except as permitted or required by this Agreement or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Covered Entity's Protected Health Information in a manner that would violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" ("Privacy Rule").

2.4 Information Safeguards.

- a. Privacy of Covered Entity's Protected Health Information. Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Covered Entity's Protected Health Information. The safeguards must reasonably protect



Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

- b. Security of Covered Entity's Protected Health Information. Business Associate will use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Covered Entity's Electronic Health Information, to prevent use or disclosure of that Electronic Protected Health Information other than as provided for by the Agreement.

2.5 Subcontractors. Business Associate will require any of its Subcontractors, to which Business Associate is permitted by this Agreement to disclose Covered Entity's Protected Health Information, to agree, as evidenced by written contract with terms substantially similar to those found in this Agreement, that such Subcontractor will comply with the same privacy and security safeguard obligations with respect to Covered Entity's Protected Health Information that are applicable to Business Associate under this Agreement.

2.6 Indemnification and Insurance. Business Associate shall indemnify, defend and hold harmless Covered Entity and its directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities, costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind (including court costs, reasonable attorneys' fees, primary loss investigation, judgement costs, expert witness fees, and any and all fees and costs from appellate proceedings), and civil and criminal penalties brought by a third party, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Business Associate's performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement. Business Associate shall obtain no later than one (1) month from Effective Date of this Agreement and maintain during the term of this Agreement liability insurance covering claims based on a violation of the Privacy Rule or any applicable law or regulation concerning the privacy of a patient information and claims based on its obligations (Name of Practice) HIPAA BUSINESS ASSOCIATE AGREEMENT 6/12 pursuant to this Section in an amount not less than \$ 1,000,000 per claim. Such insurance shall be in the form of occurrence-based coverage. A copy of such policy or certificate evidencing the policy shall be provided to Covered Entity upon written notice.

3 INDIVIDUAL RIGHTS.

3.1 Access. Business Associate will, within five (5) days following Covered Entity's request, make available to Covered Entity or, at Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies, Covered Entity's Protected Health Information, in a Designated Record Set, about the individual that is in Covered Entity's custody or control.



3.2 Amendment. Business Associate will, upon receipt of written notice from Covered Entity, promptly amend, or permit Covered Entity access to amend, any portion of Covered Entity's Protected Health Information.

3.3 Disclosure Accounting. So that Covered Entity may meet its disclosure accounting obligations under the Privacy Rule:

a. Disclosures Not Subject to Accounting. Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Covered Entity's Protected Health Information that are expressly excluded from such disclosure accounting requirement as set forth at 45 C.F.R. § 164.528(a)(1).

b. Disclosures Subject to Accounting and Necessary Information. Business Associate will record the information specified in Section 3(c)(ii)(A) or (B), as applicable, for each disclosure of Covered Entity's Protected Health Information that Business Associate makes to third party. With respect to any disclosure by Business Associate of Covered Entity's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

1) Disclosure Information Generally. Except for repetitive disclosures of Covered Entity's Protected Health Information as specified in Section 3(c)(ii)(B) below, the Disclosure Information that Business Associate must record for each accountable disclosure is (1) the disclosure date, (2) the name and (if known) address of the entity to which Business Associate made the disclosure, (3) a brief description of Covered Entity's Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure.

2) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of Covered Entity's Protected Health Information that Business Associate makes for a single purpose to the same person or entity, the Disclosure Information that Covered Entity must record is either (1) the Disclosure Information specified in Section 3(c)(ii)(A) above for each accountable disclosure; or (2) the Disclosure Information specified in Section 3(c)(ii)(A) for the first of the repetitive accountable disclosures, the frequency, periodicity, or number of the repetitive accountable disclosures, and the date of the last of the repetitive accountable disclosures.

c. Availability of Disclosure Information. Business Associate will maintain the Disclosure Information for at least six (6) years following the date of the accountable disclosure to which the Disclosure Information relates. Business Associate will make the Disclosure Information available to Covered Entity within thirty (30) days following Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting.



3.4 Restriction Agreements and Confidential Communications. Business Associate will comply with any agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity's Protected Health Information, or (ii) requires confidential or alternate methods of communication about Covered Entity's Protected Health Information, provided that Covered Entity notifies Business Associate in writing of the restriction or confidential or alternate communication obligations that Covered Entity must follow. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential or alternate communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement.

4. PRIVACY/SECURITY BREACH INVESTIGATIONS & REPORTING.

- 4.1 Business Associate will promptly and thoroughly investigate any suspected Breach of Covered Entity's Unsecured Protected Health Information not permitted by this Agreement or applicable law.
- 4.2 Business Associate will notify Covered Entity regarding a Breach of Covered Entity's Unsecured Protected Health Information ("Covered Entity Privacy Event") without unreasonable delay, but in no event later than three (3) calendar days of discovering that a Breach occurred, regardless if such Covered Entity Privacy Event is discovered by Business Associate or by any Subcontractor of Business Associate. Additionally, Business Associate will use its best efforts to assist with Covered Entity's breach investigation by making a timely written report to Covered Entity on any substantiated investigation of a Covered Entity Privacy Event. Business Associate will include as much of the information described in Sections 4(c) as is available at the time the report is written and will supplement the report with additional information once that information is known.
- 4.3 Business Associate's initial written report concerning a Covered Entity Privacy Event will, at a minimum:
 - a. Identify the names and respective titles of those who conducted the investigation on the part of Business Associate, be delivered on Business Associate's official letterhead, be signed by an officer or director of Business Associate or other responsible person and contain appropriate contact information should Covered Entity need further clarification regarding the content of the report;
 - b. Identify Covered Entity's Protected Health Information (at the individual level) that was subject to the Breach and the date the Breach occurred;
 - c. Identify the date the Breach was discovered by Business Associate;
 - d. Identify the storage medium (e.g. floppy disc, paper record, electronic server) wherein the affected Protected Health Information was housed;
 - e. Identify who committed the Breach of Covered Entity's Protected Health Information and if a disclosure of

Covered Entity's Protected Health Information was made, the identity of the person or entity to which that disclosure was made and the date or dates those disclosures occurred;

- f. Identify what corrective action Business Associate took or will take to prevent further non-permitted uses or disclosures;
- g. Identify what Business Associate did or will do to mitigate any harmful effect of the non-permitted use or disclosure; and
- h. Provide any other information to Covered Entity as Covered Entity may request to fulfill its reporting obligations to an affected individual as required under 45 C.F.R. §164.410.

5. OTHER COVERED ENTITY OBLIGATION. To the extent Business Associate is to carry out Covered Entity's obligation under the Privacy Rule, Business Associate will comply with the requirements applicable to the obligation.

6. TERMINATION OF AGREEMENT.

6.1 Right to Terminate for Breach. Covered Entity may terminate the Agreement if Business Associate has breached any provision of this Agreement. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

6.2 Termination of Agreement on Conclusion of Services Agreement. This Agreement will terminate pursuant to Section 6(a) or upon the termination of the services agreement.

a. Obligations on Termination.

- 1) Return or Destruction of Covered Entity's Protected Health Information as Feasible. Upon termination Business Associate will, if feasible, return to Covered Entity or destroy all of Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information. Business Associate will require any Subcontractor, to which Business Associate has disclosed Covered Entity's Protected Health Information to, if feasible, return to Business Associate (so that Business Associate may return it to Covered Entity) or destroy all of Covered Entity's Protected Health Information in whatever form or medium received from Covered Entity, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information, and certify on oath to Covered Entity that all such information has been returned or destroyed. Covered Entity will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or

other conclusion of the Agreement.

- 2) Procedure When Return or Destruction Is Not Feasible. Business Associate will identify any of Covered Entity's Protected Health Information, including any that Business Associate has disclosed to Subcontractors of this Agreement, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will, by its written contract with any Subcontractor to which Business Associate discloses Covered Entity's Protected Health Information require such Subcontractor to limit its further use or disclosure of Covered Entity's Protected Health Information that such Subcontractor cannot feasibly return or destroy to those purposes that make the return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or other conclusion of the Agreement.

- 3) Continuing Privacy and Security Obligation. Business Associate's obligation to protect the privacy and safeguard the security of Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of the Agreement and this Agreement.

7. GENERAL PROVISIONS.

- 7.1 Inspection of Internal Practices, Books, and Records. Business Associate will make its internal practices, books, and records relating to its use and disclosure of Covered Entity's Protected Health Information available to Covered Entity and to DHHS to determine Covered Entity's compliance with the Privacy Rule.

- 7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of HIPAA and any other applicable law.

- 7.3 Conflicts. The terms and conditions of this Agreement will override and control any conflicting term or condition of any services agreement. All non-conflicting terms and conditions of the services agreement remain in full force and effect.



In Witness Whereof, Business Associate and Covered Entity have caused this Addendum to be signed and delivered by their duly authorized representatives, as of the date set forth above.

PINAL COUNTY

ERP-ONE CONSULTING INC.

“Covered Entity”

“Business Associate”

BY: Jeff Serdy

BY: Matt Vanderkooy

(Name)

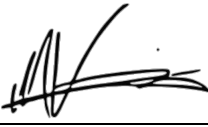
(Name)

Chairman, Pinal County Board of Supervisors

Chief Revenue Officer

(Title)

(Title)



(Signature)

(Signature)

EFFECTIVE DATE: December 6, 2023

DATE: November 3, 2023

Contract 233028RFP
Oracle JD Edwards EnterpriseOne Consulting Services

THIS CONTRACT is entered into by and between Pinal County, ("County"), whose primary address is 31 N. Pinal St., Bldg. A., Florence, AZ 85132 and Sabuja, Inc., ("Contractor"), whose primary address is 23460 Lakeridge Avenue, Hayward, CA 94541.

1. **CONTRACT TERM.** The resultant contract term will commence upon contract execution, and will continue for one (1) year unless canceled, terminated, renewed, or permissibly extended. The County has no obligation to extend or renew the contract past the initial term.
2. **CONTRACT EXTENSION.** The County, at its sole discretion, shall have the option to extend the term of this contract up to a maximum of four (4) additional one-year terms, or at the County's sole discretion, extend the contract on a month to month basis for a maximum of nine (9) months after expiration.
3. **CONTRACT TYPE.**

Contracted Labor Rates. The contracted labor rates are the fully-burdened and marked-up billing rates for Contractor's labor scheduled in the requested Pricing Document (Attachment B-7), which rates are deemed to be inclusive of the actual gross wages plus all applicable payroll taxes, non-payroll employer burden, workers' compensation contributions and health and welfare benefit contributions; retirement or other pension contributions, vacation, sick time or other paid leave allowances and the like; all required home office support, corporate or subordinate licenses or registrations, corporate insurance, professional association fees, advertising, time and travel by any of Contractor's personnel other than billable personnel and any bonuses or other incentives for all personnel (including billable personnel); all insurance coverages to be provided by Contractor under the contract; and profit.

4. **PRICING**

4.1 Most Favored Customer Pricing.

Contractor warrants that, for the term of the contract, the prices, rates, discounts, terms, and benefits set out in the proposal, including any subsequent agreed upon amendment to it, will be equal to or better than the lowest prices, best rates, largest discounts, and most favorable terms and benefits, both separately and in combination, at which Contractor sells equivalent items. If Contractor provides more favorable pricing, rates, discounts, terms and benefits to any customer, it shall immediately apply all such pricing, rates, discounts, terms and benefits to pending County purchase orders and offer such pricing, rates, discounts, terms and benefits for all future purchases made by the County.

4.2 All-Inclusive Pricing.

Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Scope of Work and all aspects of Contractor's proposal as accepted by the County. Details of service not explicitly stated in the Scope of Work or in Contractor's proposal, but necessarily a part of, are deemed to be understood by Contractor and included herein. All administrative, reporting, or other requirements, all overhead costs and



profit and any other costs toward the accomplishment of the requirements in the contract are included in the pricing provided.

4.3 Price Reductions and Sales Promotions.

Price reductions may be submitted to or requested by the County for consideration at any time during the life of the contract. Promotions or reductions to sell existing inventory/stock and to include special manufacturer assistance are allowable.

4.4 Price Increase.

The Procurement Officer may review a fully documented request for a rate increase only after the contract has been in effect for two (2) years. Any requested rate increase(s) shall be based on an unmitigatable cost increase to the Contractor that was clearly unpredictable at the time of the offer and is directly correlated to the cost of the goods or services contractually covered.

Any request for rate increase will only be considered at the time of a contract extension and must be submitted ninety (90) days prior to the adjustment. Any request for rate increase shall be a factor in the extension review process and if approved, be implemented by a formal contract change order. The County will have the right to request and receive additional information, statistics, financial records etc., and to direct the content, form, and format of presentation as it deems necessary to validate the Contractor's request for a rate adjustment. Failure to respond to the County's request within the time frames specified will nullify the Contractor's request. The County will determine whether the requested rate increase or alternate option is in its best interest and adjustments will be subject to availability of monies appropriated, if applicable.

4.5 Delivery.

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery costs and unloading at the destination.

4.6 Change Orders.

In the event the County requires any change(s) to the Scope of Work and the Contractor anticipates that the project's approved price may be exceeded as a result of the change, the Contractor shall submit a revised project cost estimate to the requesting department.

The Contractor shall not exceed an approved project's price without written preapproval by the requesting department. If preapproval is not received, the Contractor may be subject to sanctions. The revised project price proposal shall include the following:

- a. Changes and/or adjustments caused by the County's change to the Scope of Work for the project, including any adjustments to timeframes for completion of the project.
- b. An all-inclusive project price estimate, supported by a detailed cost breakdown to include all costs required to complete the project, as changed by the County.

4.7 Travel. N/A

5. INVOICING AND PAYMENTS.

5.1 Invoices.

The Contractor shall submit detailed, itemized monthly invoices before payment(s) can be made. Incomplete invoices will not be processed and will be rejected. All invoices shall reflect the contracted prices or rates for goods or services as described in the Scope of Work. At a minimum, the invoice must provide the following information:

- a. Company name, address and contact
- b. County bill-to name and contact information
- c. Contract Number
- d. County purchase order number
- e. Invoice number and date
- f. Payment terms
- g. Itemized service price as outlined in the Price Sheet (Attachment B-7)

Problems regarding billing or invoicing shall be directed to the using department as listed on the Purchase Order. All invoices must be submitted to the following e-mail or postal address:

Pinal County Finance Department
Attn: Accounts Payable
PO Box 1348
Florence, AZ 85132
financeinvoices@pinal.gov

5.2 Milestones and Retainage.

N/A

5.3 No Invoice Without Authorization. Contractor shall not seek payment for any:

- a. Charges or fees not delineated in the contract.
- b. Materials or services that have not been authorized on a purchase order.
- c. Expediting, overtime, premiums, or upcharges absent the County's express written prior approval.
- d. Materials or services that are the subject of a contract amendment or change order that has not been fully signed.

5.4 Timeliness of Invoice. By A.R.S. § 11-622, all invoices must be submitted to the County within six (6) months after service or product is received. Failure to submit an invoice within this period of time will result in non-payment.

5.5 Payments. No payment shall be issued prior to receipt of acceptable goods and/or services and a correct invoice. The County shall make every effort to process payment for acceptable goods or services within thirty (30) calendar days after receipt of said items/services and a correct invoice.

- 5.6 Payments Only to Contractor. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, the County will only make payment to Contractor under the federal tax identifier indicated on the accepted offer.
- 5.7 Payments to Subcontractors. Contractor shall make payment of all undisputed amounts due to Subcontractors, as applicable to their services, within thirty (30) days of receipt of funds from the County.
- 5.8 Availability of Funds. By A.R.S. § 35-154, every County payment obligation under the contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the contract, the County may terminate the contract at the end of the period for which funds are available, or, at County's discretion, allow appropriate amendment to the contract. No liability will accrue to County if it exercises the foregoing right or discretion, and County will have no obligation or liability for any future payments or for any damages as a result of having exercised it.
6. ARIZONA LAW. This contract shall be governed by the law of the State of Arizona and suits pertaining to this contract shall be brought only in the Pinal County Superior Court, Florence, Arizona.
7. IMPLIED LAW. Each provision of law and any terms required by law to be in this contract shall be deemed an integrated part of this contract as if fully stated herein.
8. PUBLIC RECORD. This contract is a public record and must be retained by the County for a minimum of six (6) years. All contracts are open to public inspection after contract award, except for any portions determined to be confidential by the County.
9. CONTRACT ORDER OF PRECEDENCE. All of the documents forming the contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the work as though the relevant work, requirements, obligations, or duties had been fully described on all, consistent with the other documents forming the contract and as is reasonably inferable from them as being necessary to produce complete results. In case of any inconsistency, conflict, or ambiguity among the documents forming the contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.
 - a. Written Contract Amendments
 - b. Contract
 - c. Contract Exhibit(s) A (i.e. Contracted Scope of Work)
 - d. Contract Exhibit(s) B (i.e. Contract Pricing Documents)
 - e. Contract Exhibit(s) C (i.e. Responder's Proposal Documents)
 - f. Other Contract Exhibits
 - g. Orders, in reverse chronological order
10. RELATIONSHIP OF THE PARTIES. The Contractor under this contract is an independent Contractor and shall act in an independent capacity in performance under the contract. Neither party is or is to be construed as being an

employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

- 11. SEVERABILITY. Any term or condition deemed or found illegal or invalid is thereby stricken from the contract and shall not affect any other term or condition of the contract.
- 12. NO PAROLE EVIDENCE. The contract, including any documents incorporated into the contact by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the contract.
- 13. NO WAIVER. Either party’s failure to insist on strict performance of any term or condition of the contract is not, or will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of right of, enforcement of any term or condition.
- 14. CONTRACT ADMINISTRATION AND OPERATION.

14.1 Notices and Correspondence. Notices required by this Contract shall be made to the following addresses:

County	Contractor
Name: Pinal County Purchasing Division Attn: Tiara Peterson	Name: Sabuja Inc. Attn: Devi Misra
Address: PO Box 1348 Florence, AZ 85132	Address: 23460 Lakeridge Ave. Hayward, CA 94541
Title: Purchasing Manager	Title: CEO / President / Founder
Email: Purchasing@Pinal.gov	Email: devi.misra@sabuja.com

An authorized County representative and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the contract shall not be necessary.

- 14.2 Click-Through Terms and Conditions. If either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the contract (each an “Electronic Ordering System”), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of the County do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the contract. Accordingly, where an authorized County user is required to “click through” or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation and non-binding upon the County. Additionally, where an authorized County user is required to accept or be made subject to any terms and conditions in accessing or employing any materials or services, those terms and conditions will also be void and non-binding.



- 14.3 Books and Records. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each of its Subcontractor to retain books and records *relating for any cost and pricing data submitted* in satisfaction of § 41-2543 for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Per A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records *relating to performance under the contract* for the period specified in the statute and those retained books and records are subject to audit by the County during that period. Accordingly, Contractor or Subcontractor shall either make all such books and records available to the County at all reasonable times or produce the records at a designated County office on the County’s demand, the choice of which being at the County’s discretion. For the purpose of this paragraph, “reasonable times” are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities. The Contractor and/or Subcontractor shall produce the requested records within the prescribed statutory timeframe or within fourteen (14) days which ever is longer.
- 14.4 Contractor Licenses. Contractor and Subcontractor(s) shall maintain in current status all federal, state, and local licenses and permits required for the operation of its business in general, for its operations under the contract, and if required by this contract, the work itself.
- 14.5 Inspection and Testing. Per A.R.S. § 41-2547, the County may at reasonable times inspect the part of Contractor’s or Subcontractors’ plant(s) or places of business related to performance under the contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. The County may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the contract or that will be incorporated into something to be supplied under the contract. If the inspection or testing shows non-conformance or defects, the Contractor will owe the County reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by the County of those items.
- 14.6 Acceptance of Work.
- a. Materials. The County has the right to make acceptance of materials subject to a complete inspection on delivery and installation, if installation is Contractor’s responsibility. The County may apply as acceptance criteria conformity to the contract, workmanship and quality, whether the constituent materials used are correct, and any other matter for which the contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected materials from the delivery location, or from any immediate locations to which it might have been reasonably necessary to move it, then inspect it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. The County will not owe Contractor any payment for rejected materials, and the County may, at its discretion, withhold or make partial payment for any rejected materials that have been returned to Contractor in those instances where the County has agreed to permit repair instead of demanding replacement. In the case that materials are accepted and then later deemed to not conform to the

acceptance criteria of the contract the Contractor shall provided either a credit for the non-conforming materials or provided conforming materials at no additional cost to the County within a reasonable timeframe.

- b. Services. The County has the right to make acceptance of services subject to acceptance criteria. The County may apply as acceptance criteria conformity to the contract, accuracy, completeness, or other indicators of quality, or any other matter for which the contract or law states a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. The County will not owe Contractor any payment for un-accepted services; and the County may, at its discretion, withhold or make partial payment for any rejected services if Contractor is still in the process of re-performing or otherwise curing the grounds for the County's rejection.

14.7 Ownership of Intellectual Property.

- a. Rights in Work Product. Unless otherwise noted in the terms and conditions of this contract, all intellectual property originated or prepared by Contractor pursuant to the contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the contract, shall be considered work product and shall be the exclusive property of Contractor, provided that County has Government Purpose Rights to that work product as and when it was delivered to County.
 - (1) "Government Purpose Rights" are: (i) the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which the County is a party; (ii) the right to release or disclose that work product to third parties for any County purpose; and (iii) the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any County purpose; such recipients being understood to include the federal government, the state government, and various local governments.
 - (2) "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.
- b. Joint Developments. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
- c. Pre-Existing Material. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the contract or applicable purchase orders are not

part of the work product to which rights are granted as stated above, and will remain the exclusive property of Contractor, provided that:

- (1) Any derivative works of such pre-existing material or elements thereof that are created pursuant to the contract are part of that work product;
- (2) Any elements of derivative work of such pre-existing material that was not created pursuant to the contract are not part of that work product; and
- (3) Except as expressly stated otherwise in the contract, nothing in the contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

d. **Developments Outside of Contract.** Unless expressly stated otherwise in the Terms and Conditions, the contract does not preclude Contractor from developing competing materials outside the contract, irrespective of any similarity to materials delivered or to be delivered to the County hereunder.

- 14.8 **Subcontracts.** The Contractor shall not enter into any subcontract under this contract for the performance of this contract without the advance written notice to the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. It is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees or agents of the Contractor and not the County. Nothing contained in any contract or joint venture agreement shall create any contractual relationships between any subcontractor and County, nor shall the same create any obligation on the part of the County to pay any subcontractor. The subcontract shall incorporate by reference the terms and conditions of this contract.
- 14.9 **Non-Discrimination.** Contractor shall comply with the State of Arizona Executive Order No. 2009-09 and all other applicable federal, state and local laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.
- 14.10 **E-Verify Requirements.** As required by A.R.S. § 41-4401, Contractor and each subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each subcontractor acknowledge that under A.R.S. § 41-4401, the County retains the legal right to inspect the papers of any Contractor or subcontractor employee who works under the contract to ensure that Contractor or subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- 14.11 **Offshore Performance of Certain Work Prohibited.** Any services that are described in the specifications or Scope of Work that directly serve the County or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services, services performed through remote access to the County network, or services that are incidental to the performance of the contract. This provision applies to work performed by Subcontractors at all tiers. Responders shall declare all anticipated offshore services in the proposal.

- 14.12 Estimated Quantities. Unless expressly stated otherwise in the solicitation, the (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on orders; (b) County makes no commitment of any kind concerning the quantity or monetary value of activity, work or services actually initiated or completed during the term of the contract; (c) Contractor shall only deliver or perform as authorized by orders; and (d) County is not limited as to the number of orders it may issue for the contract.
- 14.13 Non-Exclusivity. This contract is entered into with the understanding and agreement that it is for the sole convenience of Pinal County. The County reserves the right to obtain like materials or services from another source when necessary without penalty or obligation. The County reserves the right to make additional awards by aggregate, line item, regional area, or any other division of goods and services as determined to be in the best interest of the County.
- 14.14 Additions and Deletions to Contract. The County reserves the right to add and/or delete goods or services to the Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required for a contract, prices for such additions will be negotiated between the Contractor and the County.
- 14.15 Applicable Taxes. The Contractor shall be responsible for paying all applicable taxes. Pinal County is subject to all applicable state and local transaction privilege taxes. The County is exempt from certain federal excise tax on manufactured goods. The County will provide the necessary exemption certificates as evidence. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with County unless not required by law.
- 14.16 Eligible Agencies. This contract shall be for the exclusive use of Pinal County.
- 14.17 Transitions. During commencement of the contract the Contractor shall attend transition meetings with outgoing suppliers as requested by the County to coordinate efforts, ease the transition, and minimize disruption in the County's operations. The County may elect to have outgoing suppliers complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible, even if that scope is covered under the contract with the new supplier. Conversely, the County anticipates having a continued need for the same materials and services upon expiration or earlier termination of the contract. Accordingly, Contractor shall work closely with any new (incoming) supplier and the County to ensure a smooth and complete transfer. The County's representative shall coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both the existing Contractor and the incoming supplier. During the outgoing transition, the County may elect to have the outgoing Contractor complete some or all of their work or orders in progress to help ensure the safest and most efficient transition possible.

- 14.18 Other Contractors. The County may undertake with its own resources or through award of other contracts to the same or other suppliers, additional or related work. In such cases, the Contractor shall cooperate fully with the County's employees and other suppliers and carefully fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the contract requires handing-off Contractor's work to others, Contractor shall cooperate as the County instructs regarding the necessary transfer of its work product, services, or records to the County or the other suppliers. Contractor shall not commit or permit any act that interferes with the County's or other suppliers' performance of their work, provided that, the County shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.
- 14.19 Work on County Premises.
- a. Compliance with Rules. Contractor is responsible for ensuring that its personnel comply with County's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing materials or performing services on County grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the contract. Contractor is reminded that violation under Pinal County Security policy 2.10 to possess a firearm, ammunition, or an explosive device in a County building is a material breach of contract and grounds for termination for default.
 - b. Protection of Facilities and Grounds. Contractor shall deliver or install the materials and perform the services without damaging any County facilities or grounds. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions the County needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, the County will be entitled to exercise its remedies under paragraph 17.5 "Right to Offset."
- 14.20 Advertising, Publishing, and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this contract without the prior written approval of the Procurement Officer.
- 14.21 Israel Boycott Prohibited. **Pursuant to A.R.S. § 35-393.01(A) and to the extent allowable by law**, if the Contractor engages in for-profit activity and has ten (10) or more employees, and if this agreement has a value of \$100,000 or more, the Contractor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
- 14.22 Use of Forced Labor of Ethnic Uyghurs Prohibited. Pursuant to A.R.S. § 35-394, the use of forced labor, any goods produced by forced labor or contractors or subcontractors that utilize the forced labor of Ethnic Uyghurs in the People's Republic of China is prohibited. Written certification that the contractor complies with this provision shall be submitted to the County. If written certification has been submitted, and the

contractor later determines that it is not in compliance with this provision, it shall notify the County within five (5) business days. If the County does not receive notification that within one hundred and eighty (180) days of finding the violation, the company has remedied the violation of this section, the contract will terminate. If the contract naturally or otherwise terminates before the end of the one hundred and eighty (180) day remedy period, the contract terminates on the contract termination date.

15. CONTRACT CHANGES.

- 15.1 Contract Amendments. The contract is issued under the authority of the Pinal County Board of Supervisors. Only a contract amendment can modify the contract and then only if it does not change the contract's general scope. Purported changes to the contract by a person not expressly authorized by the Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the contract based on any such purported changes.
- 15.2 Signing of Contract Amendments. Contractor's counter-signature (or "approval") of contract modifications is not required to give effect if the contract amendment only covers either:
- a. Extension of the term of the contract within the maximum aggregate term;
 - b. Revision to Procurement Officer appointment or contact information; or
 - c. Modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the contract.

In every case other than those listed in a, b, and c above, both parties' signature (or "approval") of a contract modification is required to give it effect.

- 15.3 Assignment and Delegation. Contractor shall not assign in whole its rights or delegate in whole its duties under the contract without the Procurement Officer's prior written consent, which consent the Procurement Officer may withhold at his or her discretion. The Procurement Officer shall not unreasonably withhold approval of assignment or delegation. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving County satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when County first awarded it the contract. This contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto.

16. RISKS AND LIABILITIES

- 16.1 Risk of Loss. Contractor bears all risk of loss to materials while in pre-production, production, storage transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the Scope of the Work, until they have been received and accepted as conforming by the County at the location designated in the purchase order or contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.



16.2 Contractor Insurance. The Contractor and any tier of Subcontractor shall purchase and maintain insurance, until all of their obligations have been discharged including any warranty periods under this contract, against claims for injury to persons or damage to property which may arise from or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees, or Subcontractors. Failure to do so may, at the sole discretion of the County, constitute a material breach of the contract.

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

a. Minimum Scope and Limits of Insurance. Contractor shall purchase and maintain coverage with coverages and limits of liability not less than those stated below.

(1) Commercial General Liability (CGL). Commercial General Liability (CGL) Insurance (CG 0001) and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 General Aggregate Limit, and \$2,000,000 Completed Operations/Products Aggregate. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor. The additional insured endorsement shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor's work or service.

(2) Automobile Liability. Commercial/Business Automobile Liability insurance with a combined single limit (CSL) for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this contract.

The policy shall be endorsed, as required by this written agreement, to include Pinal County, its boards, agents, representatives, officers, directors, officials, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired and/or non-owned by the Contractor, and shall insure the County to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of the minimum limits required by this contract. Insurance purchased and maintained by

the Contractor shall not be limited to the liability assumed under the indemnification and defense covenants of this contract.

The policy shall contain a waiver of transfer of rights of recovery (subrogation) against the County, its boards, agents, representatives, officers, directors, officials, and employees for any claims arising out of Contractor’s work or service.

(3) Workers’ Compensation and Employer’s Liability.

Workers’ Compensation Employer’s Liability	Statutory
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Policy shall contain a waiver of subrogation against Pinal County and its officers, officials, agents, and employees for losses arising from work or service performed by or on behalf of the Contractor. This requirement shall not apply to each Contractor this is exempt under A.R.S. 23-902 (E), and when such Contractor executes the appropriate sole proprietor waiver form.

(4) Professional Errors and Omissions Liability. Coverage shall be for minimum amounts of \$2,000,000 per claim and \$5,000,000 annual aggregate.

(5) Technology or Cyber Liability. Technology or Cyber Liability insurance with a minimum of \$2,000,000 per claim and \$5,000,000 aggregate. Insurance shall include coverage for cloud computing and mobile devices, protection of private or confidential information, network security and privacy, liability for system attacks, digital asset loss, denial or loss of service, unauthorized access and use, as well as introduction, implantation or spread of malicious software code.

b. Additional Insurance Requirements. The policies shall include, or be endorsed to include the following provisions:

(1) The Contractor’s policies, as applicable, shall be primary and non contributory to insurance or self-insurance carried by the County, it’s agents, officials, or employees.

(2) Insurance provided by the Contractor shall not limit the Contractor’s liability assumed under the indemnification provisions of this contract.

c. Notice of Cancellation. Applicable to all insurance policies required within the insurance requirements of this contract, Contractor’s insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the County.

d. Acceptability of Insurers. Contractor shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best rating of not less than A-6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of

Arizona, provided that said insurance companies meet the approval of the County. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

- e. **Verification of Coverage.** Contractor shall furnish the County with certificates of insurance or formal endorsements as required by the contract at least fourteen (14) calendar days prior to commencing work or services under the contract. Such certificates shall identify this contract number and project description and shall be sent directly to the attention of Pinal County Purchasing Department. In the event any insurance policy(ies) required by this contract are written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Contractor’s work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life of the contract, a renewal certificate must be sent to the County a minimum of fourteen (14) calendar days prior to the expiration date. The form of any insurance policies, limits, endorsements and forms must be acceptable to the County. The County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County’s right to insist on strict fulfillment of Contractor’s obligations under this Contract.
- f. **Subcontractors.** All coverages for all tiers of Subcontractors shall be subject to the minimum insurance requirements identified above. The County reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its Subcontractors have the required coverage.
- g. **Approval and Modifications.** The County 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.

16.3 **Basic Indemnification.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County indemnitees from indemnified basic claims that:

- a. Are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor indemnitor;
- b. Arise out of or are recovered under workers’ compensation laws; and/or
- c. Arise out of a Contractor indemnitor’s failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor indemnitors shall indemnify the relevant County indemnitees from and against indemnified basic claims in all instances except where the indemnified basic claim arises solely from those County indemnitees’ own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for and on behalf of the other Contractor indemnitors with respect to County indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor indemnitors. In consideration of the award of the contract by a County indemnitee, Contractor hereby waives all rights of subrogation against County indemnities for losses arising from the work.

- d. It is the specific intention of the County and the Contractor that the County shall, in all instances, except for the gross negligent or willful acts of the County, be indemnified, defended and held harmless by the Contractor from and against any all demands, claims, suits, losses, and damages.

16.4 Public Health Information Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County and its supervisors, directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities (“Indemnitees”), costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind, including but not limited to, personal injury or property damage, loss or injury, including death, violations of HIPAA (including court costs and reasonable attorneys’ fees) brought by a third party, arising from or relating to the acts or omissions of Contractor or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Contractor’s performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement.

16.5 Patent and Copyright Indemnification. With respect to materials or services provided or proposed by a Contractor indemnitor for performance under the contract, Contractor shall indemnify, defend and hold harmless County indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the materials and the services. With respect to the defense and payment of claims under this subparagraph:

- a. County shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
- b. Contractor, with reasonable consultation from County shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
- c. County may elect to participate in such action at its own expense; and
- d. County may approve or disapprove any settlement or compromise, provided that the County shall not unreasonably withhold or delay such approval or disapproval; and the County shall cooperate in the defense and in any related settlement negotiations.

16.6 Force Majeure.

- a. Relief From Performance. The parties are not liable to each other if an occurrence of force majeure prevents its performance under the contract. If either party is delayed at any time in the progress of its performance under the contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and

notify the other party when it has done so. The parties will extend the time of completion by contract amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

- b. Excusable Delay is Not a Default. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.
- c. Default Diminishes Relief. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case the other party's normal remedies and the affected party's obligations would apply undiminished.

16.7 Third Party Antitrust Violations. The Contractor assigns to the County any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this contract.

17. WARRANTIES

17.1 Liens. Contractor warrants that the materials and services when accepted will be and will remain free of liens or other encumbrances.

17.2 Conformity to Requirements. Contractor warrants that, unless expressly provided otherwise elsewhere in the contract, the materials and services will for one (1) year after acceptance and in each instance:

- a. Conform to the requirements of the contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the contract;
- b. Be free from defects of material and workmanship;
- c. Conform to or perform in a manner consistent with current industry standards; and
- d. Be fit for the intended purpose or use described in the contract.

Mere delivery or performance does not substitute for express acceptance by County. Where inspection, testing, or other acceptance assessment of materials or services cannot be done until after installation, the forgoing warranty will not begin until County's acceptance.

17.3 Product Safety. Materials as shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, the County is not responsible for making any materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

17.4 Contractor Personnel. Contractor warrants that its personnel will perform their duties under the contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and

in accordance with the requirements of the contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to the County upon request.

17.5 Data Protection and Confidentiality of Records.

- a. **Proprietary and Sensitive Data.** Contractor warrants that it will establish and maintain procedures and controls acceptable to the County for ensuring that the County's proprietary and sensitive data is protected from unauthorized access and information obtained from County or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the contract, provided to the Contractor by the County or prepared by others for the County are proprietary to the County and all information by those same avenues is the County's confidential information. To comply with the foregoing warrant:
- (1) Contractor shall: (i) notify the County immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (ii) cooperate with the County to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (iii) notify the County promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
 - (2) Contractor shall not: (i) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the contract, unless the County has agreed otherwise in advance and in writing; or (ii) respond to any requests it receives from a third party for such data or information, and instead route all such requests to the County's designated representative.
- b. **Personally Identifiable Information.** Contractor warrants that it will protect any personally identifiable information ("PII") belonging to the County's employees' or other Contractors or members of the general public that it receives from the County or otherwise acquires in its performance under the contract. (For purposes of this paragraph PII has the meaning given in the [federal] Office of Management and Budget (OMB) Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information; and "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) Directive CIO P 2180.1 GSA Rules of Behavior for Handling Personally Identifiable Information.)
NOTE: For convenience of reference only, the OMB memorandum is available at:
<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2007/m07-16.pdf>.
NOTE: For convenience of reference only, the GSA directive is available at:
<http://www.gsa.gov/portal/directive/d0/content/658222>
- c. **Protected Health Information.** Contractor warrants that, to the extent performance under the contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:



- (1) Is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (i) the “Privacy Rule” in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) of 1996; (ii) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 (“ERISA”) as amended; and (iii) the County’s current and published PHI/ePHI privacy and security policies and procedures;
- (2) Will cooperate with the County in the course of performing under the contract so that both the County and Contractor stay in compliance with the requirements above and will sign any documents that are reasonably necessary to keep both the County and Contractor in compliance with the requirements above, in particular “Business Associate Agreements” in accordance with the Privacy Rule. NOTE: For convenience of reference only, the Privacy Rule is available at: <http://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

- 17.6 Intellectual Property. Contractor warrants that the materials and services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 17.7 Compliance with Applicable Laws, Licensing and Permits. Contractor warrants that the materials and services supplied under this Contract do and will continue to comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.
- 17.8 Lobbying. Contractor warrants that it will not engage in lobbying activities as defined in 40 CFR part 34 and A.R.S. § 41-1231, *et seq.*, using monies awarded under the contract. Upon award of the Contract, Contractor shall disclose all lobbying activities to the County to the extent they are an actual or potential conflict of interest or where such activities would create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure that monies awarded under the contract are not used for lobbying. Subcontractors shall be subject to these same provisions. Contractor shall include “anti-lobbying” provisions in all subcontracts. This paragraph does not apply to the extent that the services are defined in the contract as being lobbying for the County’s benefit or on the County’s behalf.
- 17.9 Survival of Rights and Obligations. All representations and warranties made by Contractor under the contract will survive the expiration or earlier termination of the contract. The Contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.

18. COUNTY’S CONTRACTUAL REMEDIES

- 18.1 Right to Assurance. If the County in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the County’s option,

be the basis for terminating the contract under the Terms and Conditions or other rights and remedies available by law or provided by the contract.

- 18.2 Stop Work Order. The County may at any time require Contractor to stop all or any part of the work by written order. Upon receipt of a stop order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to County associated with the portions of the work covered by the order. If Contractor incurs losses, it may make a claim under the Pinal County Procurement Code.
- 18.3 Non-exclusive Remedies. The County's rights and remedies under the contract are not exclusive.
- 18.4 Nonconforming Tender. The materials provided and services performed must comply fully with the contract. Providing materials or performing services or any portion thereof that do not comply fully constitutes a breach of contract, in which event the County will be entitled to exercise any remedy available to it under the contract or laws.
- 18.5 Right to Offset. The County is entitled to offset against any sums due contractor, any expenses or costs the County incurs, or damages the County assessed concerning Contractor's non-conforming performance or failure to carry out the work, including any expenses, costs, and damages to which it is entitled by the contract or laws.

19. CONTRACT TERMINATION

- 19.1 Termination for Conflict of Interest. Pursuant to A.R.S. § 38-511, the County may terminate this contract within three (3) years after the effective date without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the County is or becomes an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. Any such termination will be effective when Contractor receives the County's written notice of the termination unless the notice specifies a later date. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 19.2 Gratuities. The County may by written notice, terminate the contract in whole or in part if the County determines that employment or a gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of the County for the purpose of influencing the outcome of the procurement or the administration of the contract, or in anticipation of receiving any favorable treatment concerning the contract or performance of the contract. The County, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by Contractor.
- 19.3 Suspension or Debarment. The County may, by written notice to Contractor, terminate the contract immediately if the County discovers that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. The County has taken Contractor's submittal of the accepted offer and will take its performance under the contract as

Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify the Procurement Officer immediately.

- 19.4 Termination for Convenience. The County may terminate the contract when in the best interest of the County, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the contract. Upon receipt of the County's written termination notice, Contractor shall stop work as directed in the notice, notify all subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to the County. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract will become the County's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination.
- 19.5 Termination for Default. In addition to the rights reserved to it under the contract, the County may terminate the contract in whole or in part due to Contractor's failure to:
- a. Comply with any requirement(s), term(s), or condition(s) of the contract;
 - b. Obtain and maintain all required insurance policies, bonds, licenses, and permits;
 - c. Make satisfactory progress in carrying out the work or meeting applicable milestones; or
 - d. Failure to conduct business in an ethical or legal manner.

Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become County's property, and Contractor shall deliver all of it immediately on demand. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. The County may, following termination of the contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to the County for any excess cost the County incurs in procuring such substitutes.

20. CONTRACT CLAIMS

- 20.1 Claim Resolution. All claims and controversies shall be subject to the Pinal County Procurement Code.
- 20.2 Arbitration. It is understood and agreed that no provision of any resulting contract shall require arbitration upon the County except by the County's express written consent given subsequent to the execution of the contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. § 12-1501, *et seq.* The Contractor shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.



This agreement and exhibits hereto, as well as any purchase orders issued against this agreement, shall constitute the entire agreement between the parties with respect to the goods or services ordered under this agreement. No amendment to this agreement will be effective or binding upon the parties unless set forth in writing.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PINAL COUNTY
31 N. Pinal Street
Florence, AZ 85132

SABUJA INC.
23460 Lakeridge Avenue
Hayward, CA 94541


BY: Jeff Serdy
(Name)

BY: Devi Misra
(Name)

Chairman, Pinal County Board of Supervisors
(Title)

CEO/President
(Title)

(Signature)



(Signature)

DATE: December 6, 2023

DATE: 10/30/2023

Approved as to Legal Content:


Pinal County Attorney's Office 11/9/23
(Date)

Exhibit D
Business Associate Agreement

This Business Associate Agreement (this "Agreement") is entered into between Sabuja Inc, ("Business Associate"), and Pinal County ("Covered Entity"), and shall be effective (the "Effective Date") upon the date this Agreement is executed by the Covered Entity.

Covered Entity and Business Associate mutually agree to modify any current or future services agreement executed by and between them in order to incorporate the terms of this Agreement to comply with the requirements of the implementing regulations at 45 Code of Federal Regulations ("C.F.R.") Parts 160-64 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

The parties further agree that Business Associate will function as a "business associate" of Covered Entity and Covered Entity will function as a "covered entity" as those terms are defined in 45 C.F.R. §160.103.

1. **DEFINITIONS.** The terms "Electronic Protected Health Information" and "Protected Health Information" have the meanings set out in 45 C.F.R. §160.103. The term "Unsecured Protected Health Information" has the meaning set forth at 45 C.F.R. §164.402. The term "Required by Law" has the meaning set out in 45 C.F.R. §164.103. The term "Treatment" has the meaning set out in 45 C.F.R. §164.501. The term "Authorization" has the meaning set out in 45 C.F.R. §164.508. The term "Subcontractor" has the meaning set out in 45 C.F.R. §160.103. The term "Breach" will have the meaning set out at 45 C.F.R. §164.402. The term "Designated Record Set" will have the meaning set out at 45 C.F.R. §164.501.

2. **PRIVACY OF PROTECTED HEALTH INFORMATION.**
 - 2.1 Permitted Uses and Disclosures. Business Associate is only permitted to use and disclose Protected Health Information, whether in paper form or in electronic form, that it creates or receives from Covered Entity (or another business associate of Covered Entity) ("Covered Entity's Protected Health Information") as follows:
 - a. Functions and Activities on Covered Entity's Behalf. To perform functions, activities, services, and operations on behalf of Covered Entity as specified in the services agreement.

 - b. Covered Entity's Operations. For Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities, provided that, with respect to disclosure of Covered Entity's Protected Health Information, either:
 - 1) The disclosure is Required by Law; or

 - 2) Business Associate obtains reasonable assurance, evidenced by a written contract with terms substantially similar to this Agreement, from any third party person or entity to which Business Associate will disclose Covered Entity's Protected Health Information that the person or entity will:

- a) Hold Covered Entity's Protected Health Information in confidence and use or further disclose Covered Entity's Protected Health Information only for the purpose for which Business Associate disclosed Covered Entity's Protected Health Information to the person or entity or as Required by Law; and
- b) Promptly notify Business Associate (who will in turn notify Covered Entity in accordance with Sections 4(a) and (b) of this Agreement) of any instance of which the person or entity.

2.2 Minimum Necessary. Business Associate will, in its performance of the functions, activities, services, and operations specified in Section 2(a) above, make best efforts to use, to disclose, and to request of Covered Entity only the minimum amount of Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation with respect to:

- a. Use for or disclosure to an individual who is the subject of Covered Entity's Protected Health Information, or that individual's personal representative;
- b. Use or disclosure made pursuant to an Authorization that is signed by an individual who is the subject of Covered Entity's Protected Health Information to be used or disclosed, or by that individual's personal representative;
- c. Disclosure to the United States Department of Health and Human Services ("DHHS") in accordance with Section 7(a) of this Agreement;
- d. Use or disclosure that is Required by Law; or
- e. Any other use or disclosure that is excepted from the minimum necessary limitation as specified in the Privacy Rule (as hereinafter defined).

2.3 Prohibition on Unauthorized Use or Disclosure. Business Associate will neither use nor disclose Covered Entity's Protected Health Information, except as permitted or required by this Agreement or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Covered Entity's Protected Health Information in a manner that would violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" ("Privacy Rule").

2.4 Information Safeguards.

- a. Privacy of Covered Entity's Protected Health Information. Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Covered Entity's Protected Health Information. The safeguards must reasonably protect Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure



in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.

- b. Security of Covered Entity's Protected Health Information. Business Associate will use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Covered Entity's Electronic Health Information, to prevent use or disclosure of that Electronic Protected Health Information other than as provided for by the Agreement.

2.5 Subcontractors. Business Associate will require any of its Subcontractors, to which Business Associate is permitted by this Agreement to disclose Covered Entity's Protected Health Information, to agree, as evidenced by written contract with terms substantially similar to those found in this Agreement, that such Subcontractor will comply with the same privacy and security safeguard obligations with respect to Covered Entity's Protected Health Information that are applicable to Business Associate under this Agreement.

2.6 Indemnification and Insurance. Business Associate shall indemnify, defend and hold harmless Covered Entity and its directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all third party liabilities, costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind (including court costs, reasonable attorneys' fees, primary loss investigation, judgement costs, expert witness fees, and any and all fees and costs from appellate proceedings), and civil and criminal penalties brought by a third party, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, subcontractors, employees, affiliates, agents, and representatives in connection with the Business Associate's performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. The indemnification provisions of this Section shall survive the termination of this Agreement. Business Associate shall obtain no later than one (1) month from Effective Date of this Agreement and maintain during the term of this Agreement liability insurance covering claims based on a violation of the Privacy Rule or any applicable law or regulation concerning the privacy of a patient information and claims based on its obligations (Name of Practice) HIPAA BUSINESS ASSOCIATE AGREEMENT 6/12 pursuant to this Section in an amount not less than \$ 1,000,000 per claim. Such insurance shall be in the form of occurrence-based coverage. A copy of such policy or certificate evidencing the policy shall be provided to Covered Entity upon written notice.

3 INDIVIDUAL RIGHTS.

3.1 Access. Business Associate will, within five (5) days following Covered Entity's request, make available to Covered Entity or, at Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies, Covered Entity's Protected Health Information, in a Designated Record Set, about the individual that is in Covered Entity's custody or control.

3.2 Amendment. Business Associate will, upon receipt of written notice from Covered Entity, promptly



amend, or permit Covered Entity access to amend, any portion of Covered Entity's Protected Health Information.

3.3 Disclosure Accounting. So that Covered Entity may meet its disclosure accounting obligations under the Privacy Rule:

a. Disclosures Not Subject to Accounting. Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Covered Entity's Protected Health Information that are expressly excluded from such disclosure accounting requirement as set forth at 45 C.F.R. § 164.528(a)(1).

b. Disclosures Subject to Accounting and Necessary Information. Business Associate will record the information specified in Section 3(c)(ii)(A) or (B), as applicable, for each disclosure of Covered Entity's Protected Health Information that Business Associate makes to third party. With respect to any disclosure by Business Associate of Covered Entity's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

1) Disclosure Information Generally. Except for repetitive disclosures of Covered Entity's Protected Health Information as specified in Section 3(c)(ii)(B) below, the Disclosure Information that Business Associate must record for each accountable disclosure is (1) the disclosure date, (2) the name and (if known) address of the entity to which Business Associate made the disclosure, (3) a brief description of Covered Entity's Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure.

2) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of Covered Entity's Protected Health Information that Business Associate makes for a single purpose to the same person or entity, the Disclosure Information that Covered Entity must record is either (1) the Disclosure Information specified in Section 3(c)(ii)(A) above for each accountable disclosure; or (2) the Disclosure Information specified in Section 3(c)(ii)(A) for the first of the repetitive accountable disclosures, the frequency, periodicity, or number of the repetitive accountable disclosures, and the date of the last of the repetitive accountable disclosures.

c. Availability of Disclosure Information. Business Associate will maintain the Disclosure Information for at least six (6) years following the date of the accountable disclosure to which the Disclosure Information relates. Business Associate will make the Disclosure Information available to Covered Entity within thirty (30) days following Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting.

3.4 Restriction Agreements and Confidential Communications. Business Associate will comply with any

agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity's Protected Health Information, or (ii) requires confidential or alternate methods of communication about Covered Entity's Protected Health Information, provided that Covered Entity notifies Business Associate in writing of the restriction or confidential or alternate communication obligations that Covered Entity must follow. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential or alternate communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement.

4. PRIVACY/SECURITY BREACH INVESTIGATIONS & REPORTING.

- 4.1 Business Associate will promptly and thoroughly investigate any suspected Breach of Covered Entity's Unsecured Protected Health Information not permitted by this Agreement or applicable law.
- 4.2 Business Associate will notify Covered Entity regarding a Breach of Covered Entity's Unsecured Protected Health Information ("Covered Entity Privacy Event") without unreasonable delay, but in no event later than three (3) calendar days of discovering that a Breach occurred, regardless if such Covered Entity Privacy Event is discovered by Business Associate or by any Subcontractor of Business Associate. Additionally, Business Associate will use its best efforts to assist with Covered Entity's breach investigation by making a timely written report to Covered Entity on any substantiated investigation of a Covered Entity Privacy Event. Business Associate will include as much of the information described in Sections 4(c) as is available at the time the report is written and will supplement the report with additional information once that information is known.
- 4.3 Business Associate's initial written report concerning a Covered Entity Privacy Event will, at a minimum:
 - a. Identify the names and respective titles of those who conducted the investigation on the part of Business Associate, be delivered on Business Associate's official letterhead, be signed by an officer or director of Business Associate or other responsible person and contain appropriate contact information should Covered Entity need further clarification regarding the content of the report;
 - b. Identify Covered Entity's Protected Health Information (at the individual level) that was subject to the Breach and the date the Breach occurred;
 - c. Identify the date the Breach was discovered by Business Associate;
 - d. Identify the storage medium (e.g. floppy disc, paper record, electronic server) wherein the affected Protected Health Information was housed;
 - e. Identify who committed the Breach of Covered Entity's Protected Health Information and if a disclosure of Covered Entity's Protected Health Information was made, the identity of the person or entity to which that

disclosure was made and the date or dates those disclosures occurred;

- f. Identify what corrective action Business Associate took or will take to prevent further non-permitted uses or disclosures;
- g. Identify what Business Associate did or will do to mitigate any harmful effect of the non-permitted use or disclosure; and
- h. Provide any other information to Covered Entity as Covered Entity may request to fulfill its reporting obligations to an affected individual as required under 45 C.F.R. §164.410.

5. **OTHER COVERED ENTITY OBLIGATION.** To the extent Business Associate is to carry out Covered Entity's obligation under the Privacy Rule, Business Associate will comply with the requirements applicable to the obligation.

6. **TERMINATION OF AGREEMENT.**

6.1 Right to Terminate for Breach. Covered Entity may terminate the Agreement if Business Associate has breached any provision of this Agreement. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

6.2 Termination of Agreement on Conclusion of Services Agreement. This Agreement will terminate pursuant to Section 6(a) or upon the termination of the services agreement.

a. Obligations on Termination.

- 1) Return or Destruction of Covered Entity's Protected Health Information as Feasible. Upon termination Business Associate will, if feasible, return to Covered Entity or destroy all of Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information. Business Associate will require any Subcontractor, to which Business Associate has disclosed Covered Entity's Protected Health Information to, if feasible, return to Business Associate (so that Business Associate may return it to Covered Entity) or destroy all of Covered Entity's Protected Health Information in whatever form or medium received from Covered Entity, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of Covered Entity's Protected Health Information, and certify on oath to Covered Entity that all such information has been returned or destroyed. Covered Entity will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or other conclusion of the Agreement.

- 2) Procedure When Return or Destruction Is Not Feasible. Business Associate will identify any of Covered Entity's Protected Health Information, including any that Business Associate has disclosed to Subcontractors of this Agreement, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will, by its written contract with any Subcontractor to which Business Associate discloses Covered Entity's Protected Health Information require such Subcontractor to limit its further use or disclosure of Covered Entity's Protected Health Information that such Subcontractor cannot feasibly return or destroy to those purposes that make the return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) days following the effective date of the termination or other conclusion of the Agreement.

- 3) Continuing Privacy and Security Obligation. Business Associate's obligation to protect the privacy and safeguard the security of Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of the Agreement and this Agreement.

7. GENERAL PROVISIONS.

- 7.1 Inspection of Internal Practices, Books, and Records. Business Associate will make its internal practices, books, and records relating to its use and disclosure of Covered Entity's Protected Health Information available to Covered Entity and to DHHS to determine Covered Entity's compliance with the Privacy Rule.

- 7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of HIPAA and any other applicable law.

- 7.3 Conflicts. The terms and conditions of this Agreement will override and control any conflicting term or condition of any services agreement. All non-conflicting terms and conditions of the services agreement remain in full force and effect.



In Witness Whereof, Business Associate and Covered Entity have caused this Addendum to be signed and delivered by their duly authorized representatives, as of the date set forth above.

PINAL COUNTY

Sabuja Inc

“Covered Entity”

“Business Associate”

BY: Jeff Serdy

BY: Devi Misra

(Name)

(Name)

Chairman, Pinal County Board of Supervisors

CEO/President

(Title)

(Title) 

(Signature)

(Signature)

EFFECTIVE DATE: December 6, 2023

DATE: 10/30/2023

Leo Lew
County Manager



Himanshu Patel
Deputy County Manager

Angeline Woods
Office of Budget & Finance Director

PINAL COUNTY
WIDE OPEN OPPORTUNITY

MaryEllen Sheppard
Deputy County Manager

To: Pinal County Board of Supervisors

From: Eric Zander, Procurement Officer

Date: December 6, 2023

Re: Contract Amendment for RFP #170223 Inmate Telephone Services

It is requested the Board approve a contract term extension with Securus who provides Inmate Telephone Services for the Pinal County Sheriff's Office.

There is no cost to the County for this program.

The current term of this contract expired on October 18, 2023. The new term, if approved, will begin on December 7, 2023, and will continue through April 30, 2024. After this extension, no further extensions remain.

It is also requested the Board authorize the Director of the Office of Budget and Finance to approve and sign resulting purchase orders and related administrative documents. All other terms and conditions remain unchanged.

Respectfully submitted,

Eric Zander

Eric Zander, CSCP
Procurement Officer
(520) 866-6644
Eric.Zander@pinal.gov

Contract Amendment

The Office of Budget and Finance – Purchasing Division
31 N. Pinal Street, PO Box 1348
Florence, AZ 85132
(520) 866-6008

**Contract: 170223RFP
Amendment #7**
Procurement Officer: Eric Zander
Eric.Zander@pinal.gov

Inmate Telephone Services

Contractor Name: **Securus Technologies, Inc.**

Pursuant to Special Terms and Conditions Paragraph 3 (Contract Extension) and Uniform Terms and Conditions Section 5 (Contract Changes), the referenced Contract shall be amended as follows:

1. The term of this Contract is hereby extended to April 30, 2024 with the option of one (1) additional three month extension.

Except as otherwise expressly modified or amended herein, all other terms, conditions, and pricing contained in the Contract shall remain in full force and effect and shall not be altered or changed by this Amendment.

Contractor hereby acknowledges receipt and understanding of the above amendment.

The above reference contract amendment is hereby executed this date by the County.

BY: Alex Yeo
(Name)

BY: Jeff Serdy
(Name)

Chief Revenue and Product Officer
(Title)

Chairman, Pinal County Board of Supervisors
(Title)


(Signature)

(Signature)

Securus Technologies, LLC
(Contractor Name)

DATE: December 6, 2023

DATE: 11/09/2023



Leo Lew
County Manager



Himanshu Patel
Deputy County Manager

Angeline Woods
Office of Budget & Finance Director

PINAL COUNTY
WIDE OPEN OPPORTUNITY

MaryEllen Sheppard
Deputy County Manager

To: Pinal County Board of Supervisors

From: Eric Zander, Procurement Officer

Date: December 6, 2023

Re: Contract Amendment for RFP #170322 Inmate Tablet Program

It is requested the Board approve a contract term extension with Securus who provides Inmate Tablet Program Services for the Pinal County Sheriff's Office.

There is no cost to the County for this program.

The current term of this contract expired on October 18, 2023. The new term, if approved, will begin on December 7, 2023, and will continue through April 30, 2024. The option of one (1) additional three month extension remains.

It is also requested the Board authorize the Director of the Office of Budget and Finance to approve and sign resulting purchase orders and related administrative documents. All other terms and conditions remain unchanged.

Respectfully submitted,

Eric Zander

Eric Zander, CSCP
Procurement Officer
(520) 866-6644
Eric.Zander@pinal.gov

Contract Amendment

The Office of Budget and Finance – Purchasing Division
31 N. Pinal Street, PO Box 1348
Florence, AZ 85132
(520) 866-6008

**Contract: 170322RFP
Amendment #6**
Procurement Officer: Eric Zander
Eric.Zander@pinal.gov

Inmate Tablet Program

Contractor Name: **Securus Technologies, Inc.**

Pursuant to Special Terms and Conditions Paragraph 3 (Contract Extension) and Uniform Terms and Conditions Section 5 (Contract Changes), the referenced Contract shall be amended as follows:

1. The term of this Contract is hereby extended to April 30, 2024 with the option of one (1) additional three month extension.

Except as otherwise expressly modified or amended herein, all other terms, conditions, and pricing contained in the Contract shall remain in full force and effect and shall not be altered or changed by this Amendment.

Contractor hereby acknowledges receipt and understanding of the above amendment.

The above reference contract amendment is hereby executed this date by the County.

BY: Alex Yeo
(Name)

BY: Jeff Serdy
(Name)

Chief Revenue and Product Officer
(Title)

Chairman, Pinal County Board of Supervisors
(Title)


(Signature)

(Signature)

Securus Technologies, LLC
(Contractor Name)

DATE: December 6, 2023

DATE: 11/09/2023



Leo Lew
County Manager



Himanshu Patel
Deputy County Manager

Angeline Woods
Office of Budget & Finance Director

PINAL COUNTY
WIDE OPEN OPPORTUNITY

MaryEllen Sheppard
Deputy County Manager

To: Pinal County Board of Supervisors

From: Eric Zander, Procurement Officer

Date: December 6, 2023

Re: Contract Amendment for RFP #170423 Video Visitation

It is requested the Board approve a contract term extension with Securus who provides Video Visitation services for the Pinal County Sheriff's Office.

There is no cost to the County for this program.

The current term of this contract expired on October 18, 2023. The new term, if approved, will begin on December 7, 2023, and will continue through April 30, 2024. The option of one (1) additional three month extension remains.

It is also requested the Board authorize the Director of the Office of Budget and Finance to approve and sign resulting purchase orders and related administrative documents. All other terms and conditions remain unchanged.

Respectfully submitted,

Eric Zander

Eric Zander, CSCP
Procurement Officer
(520) 866-6644
Eric.Zander@pinal.gov

Contract Amendment

The Office of Budget and Finance – Purchasing Division
31 N. Pinal Street, PO Box 1348
Florence, AZ 85132
(520) 866-6008

**Contract: 170423RFP
Amendment #6**
Procurement Officer: Eric Zander
Eric.Zander@pinal.gov

Video Visitation

Contractor Name: **Securus Technologies, Inc.**

Pursuant to Special Terms and Conditions Paragraph 3 (Contract Extension) and Uniform Terms and Conditions Section 5 (Contract Changes), the referenced Contract shall be amended as follows:

1. The term of this Contract is hereby extended to April 30, 2024 with the option of one (1) additional three month extension.

Except as otherwise expressly modified or amended herein, all other terms, conditions, and pricing contained in the Contract shall remain in full force and effect and shall not be altered or changed by this Amendment.

Contractor hereby acknowledges receipt and understanding of the above amendment.

The above reference contract amendment is hereby executed this date by the County.

BY: Alex Yeo
(Name)

BY: Jeff Serdy
(Name)

Chief Revenue and Product Officer
(Title)

Chairman, Pinal County Board of Supervisors
(Title)


(Signature)

(Signature)

Securus Technologies, LLC
(Contractor Name)

DATE: December 6, 2023

DATE: 11/09/2023





To: Pinal County Board of Supervisors

From: Kristen Grieco, Procurement Officer

Date: December 6, 2023

Re: Contract Amendment for RFP 202725 Court Ordered Evaluation Services

It is requested the Board approve a contract term extension with the following suppliers who provide Court Ordered Evaluation Services for the Public Fiduciary's Office:

Community Bridges Inc.
Sonora Behavioral Health

The County has spent approximately \$685,000 on these contracts in the last year and the same is anticipated in the next year of the contract.

The current term of this contract expires on December 15, 2023. The new term, if approved, will begin on December 16, 2023, and will continue through December 15, 2024. After this extension, one (1) one-year optional extension will remain.

It is also requested the Board authorize the Director of the Office of Budget and Finance to approve and sign resulting purchase orders and related administrative documents. All other terms and conditions remain unchanged.

Respectfully submitted,

Kristen Grieco

Kristen Grieco
Procurement Officer
(520) 866-6639
Kristen.Grieco@pinal.gov



Contract Amendment

The Office of Budget and Finance – Purchasing Division
31 N. Pinal Street, PO Box 1348
Florence, AZ 85132
(520) 866-6008

**Contract: Enter Contract #202725RFP
Amendment #3**
Procurement Officer: Kristen Grieco
Kristen.Grieco@pinal.gov

Court Ordered Evaluation Services

Contractor Name: **Community Bridges Inc.**

Pursuant to Paragraph 15 (Contract Changes), the referenced Contract shall be amended as follows:

1. Contract Term. Pursuant to Paragraph 2 (Contract Extension), the term of this Contract is hereby extended to December 15, 2024.

Except as otherwise expressly modified or amended herein, all other terms, conditions, and pricing contained in the Contract shall remain in full force and effect and shall not be altered or changed by this Amendment.

Pinal County hereby executes its right to unilaterally amend the above referenced contract on this date.

<u>X</u>	<u>X</u> December 6, 2023
Jeff Serdy, Chairman	Date
Pinal County Board of Supervisors	



Contract Amendment

The Office of Budget and Finance – Purchasing Division
31 N. Pinal Street, PO Box 1348
Florence, AZ 85132
(520) 866-6008

**Contract: Enter Contract #202725RFP
Amendment #3**
Procurement Officer: Kristen Grieco
Kristen.Grieco@pinal.gov

Court Ordered Evaluation Services

Contractor Name: **Sonora Behavioral Health**

Pursuant to Paragraph 15 (Contract Changes), the referenced Contract shall be amended as follows:

1. Contract Term. Pursuant to Paragraph 2 (Contract Extension), the term of this Contract is hereby extended to December 15, 2024.

Except as otherwise expressly modified or amended herein, all other terms, conditions, and pricing contained in the Contract shall remain in full force and effect and shall not be altered or changed by this Amendment.

Pinal County hereby executes its right to unilaterally amend the above referenced contract on this date.

<u>X</u>	<u>X</u> December 6, 2023
Jeff Serdy, Chairman	Date
Pinal County Board of Supervisors	

Competition Impracticable Justification Form

(In accordance with Pinal County Procurement Code PC1 - 349-351)



Requestor and Vendor Information

Requestor Name

ANELA ARCIGA

Request Date

11/07/2023

Requestor Email

ANELA.ARCIGA@PINAL.GOV

Requestor Extension OR Phone # *

7304

Department Name

PUBLIC HEALTH

Requisition #

169063

Suggested Vendor *

MCKESSON

Estimated Yearly Amount *

\$250,000.00

Item/Service to be Purchased: *

Covid-19 Vaccine

REQUESTOR: Reason for Requesting Competition Impracticable (Check All Applicable):

- Item or service has been determined as a County-wide standard:
- Must match existing item or service to ensure uniformity where costs to manage variations would be prohibitive:
- Use of "certified" or specifically approved vendors of service equipment is required to maintain warranty of equipment:
- Specifications of a particular item or service is such that there is not a comparable product on the market that could provide similar results or quality. Other manufacturers of this type of product or service do not meet our minimum requirements. For example, manufacturer & reason:
- Other (includes course-specific material):

Explain: *

As a county health department we are required to provide all vaccine presentable immunizations to the public. We would like to purchase the COVID-19 vaccine from McKesson who is an established vendor of Pinal County Public Health Service District. McKesson is giving us a discount on the Covid-10 vaccinations, however, the pricing is not based on GPO/Coop pricing. Our other options to order the COVID-19 Vaccinations are Moderna who not shipping to Arizona and Cardinal Health who is out of stock. McKesson is the only vendor that we can obtain the Covid-10 vaccine from at this time and we are at a time critical phase going into upper respiratory illness season that we need to obtain these vaccines to provide to the public as soon as possible.

Supporting Documents Attachment (1)

FIN Purchasing Supporting Documents (Document Name - Max. 75 Characters)

- Dept: PUBLIC HEALTH - Req Dt - Suggested Venor: MCKESSON - Vendor Name:

Administration Approval Section

Department Director Approval

Dept Director Approval Name

MERISSAM

Dept Director Response

Approved

Dept Director Approval Date

11/07/2023

Dept Director Approval Comments

Dept Director Denied Comments

Procurement Officer – Review & Recommendation

Procurement Officer Approval Name

BRISNAC

Procurement Officer Response

Approved

Procurement Officer Approval Date

11/08/2023

Procurement Officer Review

COMPETITION IMPRACTICABLE JUSTIFICATION IS ADEQUATE AND PURCHASE TO BE AUTHORIZED WITHOUT COMPETITIVE BIDDING.

Procurement Officer Approval Comments

MCKESSON IS THE ONLY VENDOR THAT WE CAN OBTAIN THE COVID-10 VACCINE FROM AT THIS TIME AND WE ARE AT A TIME.

Procurement Officer Denied Comments

Procurement Manager Approval

Procurement Mgr Approval Name

TIARA PETERSON

Procurement Mgr Response

Approved

Procurement Mgr Approval Date

11/14/2023

Procurement Mgr Approval Comments

MCKESSON WON'T COVER COVID VACCINES W/ THEIR COOPERATIVE CONTRACT, BUT THIS IS THE ONLY VENDOR WHERE WE'VE BEEN ABLE TO FIND PRODUCT THAT CAN BE SHIPPED. FOR GOOD OF PUBLIC HEALTH/WELFARE.

Procurement Mgr Denied Comments

Finance Director - Under \$100K

Finance Director Approval Name

Angeline Woods



Finance Director Response

Finance Director Approval Date

11/14/2023

Finance Director Approval Comments

Finance Director Denied Comments

Procurement FINAL

Procurement FINAL Approval Name

Procurement FINAL Approval Date

Contract # - if applicable

Vendor #

Vendor Name

Execution Date

Retention Date

Denied Information Section

Procurement Officer Denied Queue Comments

December 6, 2023

Jeff Serdy, Chairman
Pinal County Board of Supervisors



PINAL COUNTY
WIDE OPEN OPPORTUNITY

Purchase Requisition

Req. Number
169032

Req. Date: 11/15/2023
Page: 1 of 1

Department Contact: KESSAY, TISHA Phone: - Branch Plant: SP-DEPARTMENT DIRECTOR Fund Source: CAPITAL PROJECTS/MISCELLANEOUS	Ship to: PUBLIC WORKS- ADMIN OFFICES 85 N. FLORENCE ST 2ND FLOOR FLORENCE AZ 85132	Supplier: LLOYD CONSTRUCTION CO., INC 2180 N. WILMOT TUCSON AZ 85712 Phone: - Fax: -
---	---	--

Buyer: Maegan Queen, Buyer Phone: 520 - 866-6265 Email: maegan.queen@pinal.gov	Requested Delivery Date: 11/15/2023 Payment Terms: Net 30 Shipping Terms: FOB Destination
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The terms and conditions of the following contract apply to this Purchase Order:

Contract Entity City of Tucson
Contract Number 192091-06
Contract Expiry 6/30/2024

Reference: Proposal: Oracle Park Re- Development

Vendor Contact: Tom Stephens 520-306-1014 tom@lloydconstruction.com

Department Contact: Kent Taylor 520-866-6910 kent.taylor@pinal.gov | Hezekiah Allen 520-866-6916 hezekiah.allen@pinal.gov |
Yoli Ramirez 520-866-6374 yolanda.ramirez@pinal.gov

Line	Quantity	UOM	Item Number	Item Description	Unit Cost	Extended Cost
1.00		LS		Construction services for Orac Redevelopment Project	\$0.00	\$1,187,025.33

Total Order: \$1,187,025.33



October 10, 2023 VE Rev#1

Hezekiah Allen
Park & Trails Ops. Manager
Pinal County-Open Space & Trails Dept.
Florence, AZ 85132
520-866-6916
Hezekiah.allen@pinal.gov

Re: Oracle Park Re-Development

Dear Mr. Allen,

Lloyd Construction Company, Inc. gratefully submits our JOC proposal per the below mentioned scope of work and construction documents:

Description of work:

- Improvements as shown in the plans, specifications, and value engineering narrative to re-Develop Oracle Community Park
- Includes SWPPP best practices-provide and install waddle barrier as required
- Includes \$15,000.00 allowance for permitting fees

List of Plans:

- McGann & Associates Inc. Oracle Community Park dated 11/01/2021
- Specification dated 11/01/2021
- VE plan sheet G4.0 Dated 10/03/2023
- Pinal.gov VE review Comments 10/16/23

Base Bid with VE Rev1	\$ 1,087,541.05
Alternate#1 New_Post/Barrier	\$ 51,487.55
Alternate#4 DG Paths	\$ 25,253.78
Alternate#5 Irrigation/Planting	\$ 22,742.96
TOTALS	\$ 1,187,025.33

The following items are excluded from this proposal but may be provided as an additional

service, at an additional fee:

- Geotechnical and Environmental engineering, testing, and reports.
- LEED design and certification fees and registration / submittal costs.

- Special structural testing and inspections.
- Construction materials and assembly testing.
- Wastewater, or other development fees
- Presentation renderings, animations, and physical models of the project.
- Site, archeological and environmental surveys.
- Public art coordination or selection.
- Life Cycle Costs Study.
- SWPPP-Plan and Permit Excluded-N/A-Area of disturbance is under 1 acre
- Security cameras, security personal and/or any security provisions besides temporary site fencing
- Utility Company Charges
- The removal, handling, and or disposal of any hazardous materials, including asbestos.

Please feel free to contact me should you have any questions at 520-884-9821. Again, thank you for the opportunity to submit our JOC proposal on this project.

Respectfully,

Tom Stephens-Project Manager

Project	Oracle Community Park
Type	Park Improvements
Address	333 E Nueces St
Architect	McGinn & Associates Inc.
Drawings	Restroom and Site Improvement Project Dated 11/1/2021
Bid Date	September 22, 2023 4pm
Bid Type	VE Proposal 10/10/2023

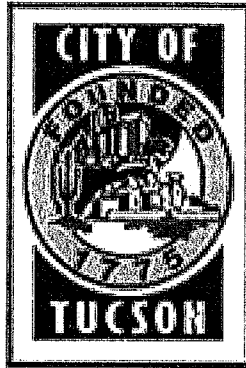


INTEGRITY | PASSION | EXCELLENCE

Includes Demo of existing

Cost Code	Description	Unit Qty	U/M	Unit Cost	Subtotal	Total	BASE BID	Alt#1 Post & Cable Barrier	Alt#4 Decomposed Granite Pathways	Alt#5 Irrigation/Planting	Notes
1-1000	General Conditions					\$113,658.50					
	DIV 1 SUBTOTAL						\$113,658.50				Supervision, Admin/Management, Cleaning, Misc Carpentry, Dumpsters, and provisions to manage project-16wks @\$7331 per/wk
2-1000	Existing Conditions										
2-1610	Special Inspections	1	ls	\$ -	\$ -	\$ -					Excludes Special Inspections-Owner Item
	SWPPP-Best Practices Only	1	ls	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00					Area of disturbance is under 1acre-SWPPP best practices followed in lieu of Storm water pollution prevention plan (non Provided) Includes Installation of waddle at catch basins and flow areas as well as maintenance of the waddle barriers.
	Permit Allowance	1	ls	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00					15K Allowance for unknown permitting costs-Submission of plans for permitting to be provided by McGinn & Associates
2-4100	Demolition-Base Bid	1	ls	\$ 23,510.00	\$ 23,510.00	\$ 23,510.00					
	Demolition -Post and Cable Barrier 1400lf	1	ls	\$ 5,500.00	\$ 5,500.00	\$ 5,500.00		\$ 5,500.00			
2-4200	Surveying	1	ls	\$ 23,760.00	\$ 23,760.00	\$ 23,760.00					Certified survey; Surveying control points and site elevator
2-5000	Private Locating	1	ls	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00					
	DIV 2 SUBTOTAL						\$ 66,770.00				
3-1000	Concrete										
	Mobilization	1	ls	\$ 14,000.00	\$ 14,000.00	\$ 14,000.00					
3-3000	Concrete-Basketball Court(VE Reduced Size)	1525	sf	\$ 16.00	\$ 24,400.00	\$ 24,400.00					90'x50'x4" Basketball Court KN7Slab Detail 8"x8" toe down(2cy 56cy+2cy=58cy total @ Court: ABC=56cy compacted to 95%
3-3020	Concrete-Sidewalks	5712	sf	\$ 14.00	\$ 79,968.00	\$ 79,968.00					5712sf of 4" walk=71CY
3-3020	Trench-Plumbing Pour Backs	252	sf	\$ 14.00	\$ 3,528.00	\$ 3,528.00					
3-3020	Concrete Header @ Play Equip. areas 4/P3.0	180	lf	\$ 40.00	\$ 7,200.00	\$ 7,200.00					
3-3020	Ramada Slab Extension	540	sf	\$ 14.00	\$ 7,560.00	\$ 7,560.00					
3-3020	Ramada Footings (2) for replacement columns	2	ea	\$ 1,400.00	\$ 2,800.00	\$ 2,800.00					
3-3020	Concrete Ramps	2	ea	\$ 1,610.00	\$ 3,220.00	\$ 3,220.00					
3-3020	Goal Post Footings	2	ea	\$ 2,680.00	\$ 5,360.00	\$ 5,360.00					
3-3020	Header at Driveway-Removed from SOV	0	lf	\$ 78.00	\$ -	\$ -					VE-Removed 12lf Header Curb at drivewa
	DIV 3 SUBTOTAL						\$ 148,036.00				
4-1000	Masonry										
4-2110	Restroom CMU	1	ls	\$ 19,600.00	\$ 19,600.00	\$ 19,600.00					CMU work at restroom partition walls; and entry to restroom
4-2110	4" Cap Seat wall-CIP Concret	1	ls	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00					
	DIV 4 SUBTOTAL						\$ 22,100.00				
5-1000	Metals										
5-1100	Steel Column	1	ls	\$ 3,650.00	\$ 3,650.00	\$ 3,650.00					
5-5200	Lintels	1	ls	\$ 5,600.00	\$ 5,600.00	\$ 5,600.00					
	DIV 5 SUBTOTAL						\$ 9,250.00				
6-1000	Wood, Plastics & Composites										
6-1150	Miscellaneous Carpentry	1	ls	\$ 5,500.00	\$ 5,500.00	\$ 5,500.00					Sculptwood Putty-End Rot water damage repairs (www.systemthree.co
6-1150	Rough Carpentry	1	ls	\$ 6,320.00	\$ 6,320.00	\$ 6,320.00					
	DIV 6 SUBTOTAL						\$ 11,820.00				
7-1000	Thermal and Moisture Protection										
7-5000	Shingle Roofing	720	sf	\$ 32.00	\$ 23,040.00	\$ 23,040.00					Excludes Demo of Existing Roofing;Includes new roofing over existing
7-5000	Flashings/Break Metals	1	ls	\$ 8,500.00	\$ 8,500.00	\$ 8,500.00					
7-8200	Joint Sealants	1	ls	\$ 6,500.00	\$ 6,500.00	\$ 6,500.00					
7-9500	Expansion Control	1	ls	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00					
	DIV 7 SUBTOTAL						\$ 40,540.00				
8-1000	Openings										
8-1020	Doors, Frames & Hardware	1	ls	\$ 8,315.55	\$ 8,315.55	\$ 8,315.55					(1) 3070 HM Frame, (1) 3070 16ga. Steel Stiffened Hollow Metal Door
8-1050	Doors, Frames & Hardware - Install	1	ls	\$ 700.00	\$ 700.00	\$ 700.00					Finish hardware Frame/Door/Hardware Installation labor
	DIV 8 SUBTOTAL						\$ 9,015.55				
9-1000	Finishes										
9-9100	Painting	1	ls	\$ 9,500.00	\$ 9,500.00	\$ 9,500.00					
	DIV 9 SUBTOTAL						\$ 9,500.00				
10-1000	Specialties										
10-2810	Standard Partitions-Solid plast	1	ea	\$ 8,700.00	\$ 8,700.00	\$ 8,700.00					Allowance for Standard Solid Plastic Partitions in Lieu of Fabricated Ste

10-2810	Toilet Accessories	1	ea	\$ 3,970.00	\$ 3,970.00	\$ 3,970.00					
10-2810	Electric Hand Dryers	2	ea	\$ 975.00	\$ 1,950.00	\$ 1,950.00					
DIV 10 SUBTOTAL							\$ 14,620.00				
11-1000 Equipment											
11-6810	Playground Equipment-Smart Play Ventl	1	ea	\$ 59,236.00	\$ 59,236.00	\$ 59,236.00					
11-6810	Playground Equipment Installation Labor	1	ea	\$ 25,090.00	\$ 25,090.00	\$ 25,090.00					
	Skyways Integrated Hypar Shade for Ventl	1	ea	\$ 23,810.00	\$ 23,810.00	\$ 23,810.00					
11-6810	Play Soft Engineered Wood Fiber (97cu. Yds.)	1	ea	\$ 8,531.00	\$ 8,531.00	\$ 8,531.00			Includes Engineered wood fiber, Geo-textile fabric, freight/shipping, ar installation		
DIV 11 SUBTOTAL							\$ 116,667.00				
22-1000 Plumbing											
22-1000	Plumbing Subcontract	1	ls	\$ 94,892.00	\$ 94,892.00	\$ 94,892.00			Demo of fixtures by others(see demo line)		
DIV 22 SUBTOTAL							\$ 94,892.00				
23-1000 HVAC											
DIV 23 SUBTOTAL							\$ -				
26-1000 Electrical											
26-1100	Electrical Subcontract	1	ls	\$ 26,845.79	\$ 26,845.79	\$ 26,845.79			Includes 3000 for Arc Study by Sabino Electric		
DIV 26 SUBTOTAL							\$ 26,845.79				
31-1000 Earthwork											
31-1100	Cut/Fill Walks, Parking areas, Maintenance Drive	1	sf	\$ 79,000.00	\$ 79,000.00	\$ 79,000.00					
	Basketball Court Extension-Earthwork	1	ls	\$ 2,480.00	\$ 2,480.00	\$ 2,480.00					
DIV 31 SUBTOTAL							\$ 81,480.00				
32-1000 Exterior Improvements											
32-1210	Asphalt Paving 2" with 4"ABC	1	ls	\$ 28,500.00	\$ 28,500.00	\$ 28,500.00					
32-1210	DG East & North Parking Lots	4991	sf	\$ 3.00	\$ 14,973.00	\$ 14,973.00					
	DG Maintenance Drive	1326	sf	\$ 3.00	\$ 3,978.00	\$ 3,978.00					
32-1720	Pavement Markings-ADA Parking Lot	1	ls	\$ 3,850.00	\$ 3,850.00	\$ 3,850.00			Striping ADA Parking Lot		
32-3100	Gate-Traffic Control Gate	1	ls	\$ 2,877.00	\$ 2,877.00	\$ 2,877.00					
32-3100	PAG Handrail Soffit	1	ls	\$ 3,820.00	\$ 3,820.00	\$ 3,820.00					
32-3100	Chain Link Fencing-5' height 180I/VE Scope Removed	0	ls	\$ 8,467.00	\$ -	\$ -			Removed from SOW-VE ITEM		
32-3100	Post and Cable Barrier Base Bid 57f	57	lf	\$ 26.00	\$ 1,482.00	\$ 1,482.00					
32-3100	Post and Cable Barrier System 1400lf	1	ls	\$ -	\$ -	\$ -	\$ 35,533.00				
32-3300	Benches	3	ls	\$ 1,675.00	\$ 5,025.00	\$ 5,025.00			Includes Shipping/Freight, (3) D6008 6' Benches and Installation		
32-3300	Outdoor Grill	1	ls	\$ 1,423.00	\$ 1,423.00	\$ 1,423.00					
32-3300	Handicap Parking Sign	2	ls	\$ 450.00	\$ 900.00	\$ 900.00					
	Concrete Wheel Stops	2	ea	\$ 325.00	\$ 650.00	\$ 650.00					
	Basketball/Pickleball Court Striping	1	ls	\$ 3,975.00	\$ 3,975.00	\$ 3,975.00			Allowance for new court striping plan; Includes minor patching and crac filling of existing surface prior to striping		
32-3300	Basketball Provisions	1	ls	\$ 10,268.00	\$ 10,268.00	\$ 10,268.00			Includes Shipping/Freight, (2) Gooseneck Basketball Posts, Backboards; Breakaway Competition Goal with Net, and installation		
32-3300	Decomposed Granite Paths	1	ls	\$ 20,126.00	\$ 20,126.00	\$ -	\$ 20,126.00				
32-8000	Irrigation/Plantings	1	ls	\$ 18,125.00	\$ 18,125.00	\$ -	\$ 18,125.00				
32-9000	Hydro-Seed-VE SOW Removed	36300	sf	\$ -	\$ -	\$ -	\$ -		Removed from SOW-VE Item		
DIV 32 SUBTOTAL							\$ 81,721.00				
33-1000 Utilities											
33-1200	Water Utilities-2" @ 200lf	1	ea	\$ 19,800.00	\$ 19,800.00	\$ 19,800.00			Approx 271f of new 2" schedule 40pvc domestic water and (1) 2" backflo preventer with cage and frost guard; Includes approx 40lf of new 4" SDR-35 connection to existing septic		
DIV 33 SUBTOTAL							\$ 19,800.00				
DIRECT CONSTRUCTION COSTS (DCC)							\$866,715.84	\$866,715.84	\$ 41,033.00	\$ 20,126.00	\$ 18,125.00
1-9100	Construction Contingency	0.00%		\$ -	\$ -	\$ -					
1-9150	Design Contingency	0.00%		\$ -	\$ -	\$ -					
1-9300	Permit & Fees	0.00%		\$ -	\$ -	\$ -					
1-9920	General Liability	1.00%		\$ 10,875.41	\$ 10,875.41	\$ -	\$ 514.88	\$ 252.54	\$ 227.43		
1-9930	Builders Risk	0.70%		\$ 7,612.79	\$ 7,612.79	\$ -	\$ 360.41	\$ 176.78	\$ 159.20		
1-9940	Bond	1.00%		\$ 10,875.41	\$ 10,875.41	\$ -	\$ 514.88	\$ 252.54	\$ 227.43		
1-9960	Fee	8.00%		\$ 87,003.28	\$ 87,003.28	\$ -	\$ 4,119.00	\$ 2,020.30	\$ 1,819.44		
1-9960	OverHead	5.25%		\$ 57,095.91	\$ 57,095.91	\$ -	\$ 2,703.10	\$ 1,325.82	\$ 1,194.01		
1-9980	Tax	4.355%		\$ 47,362.41	\$ 47,362.41	\$ -	\$ 2,242.28	\$ 1,099.802	\$ 990.46		
INDIRECT CONSTRUCTION COST (ICC)							\$ 220,825.21	\$ 10,454.55	\$ 5,127.78	\$ 4,617.96	
TOTAL CONSTRUCTION COST (TCC)							\$ 1,087,541.05	\$ 51,487.55	\$ 25,253.78	\$ 22,742.96	\$ 1,187,025.33
					BASE BID	Post Barrier Total Alt#1	DG Paths Total ALT#4	Irrigation/Planting Total ALT#5			



BUSINESS SERVICES DEPARTMENT
PROCUREMENT DIVISION

CONTRACT NO. 192091-06

Job Order Contract for Park Improvements

LLOYD CONSTRUCTION COMPANY, INC.

2180 N. Wilmot Rd.

Tucson, AZ 85712

Office Phone: 520.884.9821

F: 520.884.1761

CONTRACT ADDENDUM

CITY OF TUCSON BUSINESS SERVICES DEPARTMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701
P.O. BOX 27210, TUCSON, AZ 85726
PHONE: (520) 837-4118 / FAX: (520) 791-4735
Sandra.alcorn@tucsonaz.gov
ISSUE DATE: May 16, 2023

CONTRACT # 192091-06
CONTRACT ADDENDUM NUMBER: FOUR (4)
PAGE 1 of 1
SA
CONTRACT OFFICER: Sandra Alcorn

JOC FOR PARK IMPROVEMENTS

THIS CONTRACT IS AMENDED AS FOLLOWS:

ITEM 1: CONTRACT RENEWAL

Pursuant to the contract, Special Terms and Conditions, Number 4, Contract Term and Renewal the City is hereby exercising its option to renew the contract for the period of **July 1, 2023 through June 30, 2024.**

ITEM 2: ANNUAL ESTIMATE/BONDING

The estimated dollar value of this contract for the renewal period is EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$850,000.00). In accordance with Arizona Revised Statute and Special Terms and Conditions, Number 9, Bonding Requirements, the Contractor must provide payment and performance bonds for this amount. Should the value of construction during the renewal period exceed the estimated contract amount, it shall be the responsibility of the Contractor to ensure the payment and performance bonds cover the total contract value. Bonds may be provided as follows: annual bonds in the amount designated above, or bonding per each individual job.

*****END OF ADDENDUM ITEMS*****

ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.

CONTRACTOR:

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT OF
AND UNDERSTANDING OF THE ABOVE ADDENDUM

Tom Stephens

Digitally signed by Tom Stephens
Date: 2023.06.15 10:41:58-07'00'

Signature of person authorized to sign Date

Tom Stephens Project Manager

Name and Title (typed or printed legibly)

Lloyd Construction Company, INC.

Company Name

2180 N Wilmot Rd.

Address

tom@lloydconstruction.com

Email Address

Tucson, AZ. 85712

City State Zip

Contact information for Sales/Account
Representative for daily business operations:

Brisa Boyd

Name and Title (typed or printed legibly)

520-884-9821

Phone Number

brisa@lloydconstruction.com

Email Address

CITY OF TUCSON:

THE ABOVE REFERENCED CONTRACT ADDENDUM

IS HEREBY EXECUTED THIS 16th DAY

OF June, 2023, AT TUCSON, ARIZONA.

Dan Longanecker for

Director of Business Services and not personally