



Pinal-Gila Council for Senior Citizens
 Area Agency on Aging
 8969 W. McCartney Rd.
 Casa Grande, Arizona 85194-7432
 (520) 836-2758 1-800-293-9393
 Fax (520) 421-2033

CONTRACT BETWEEN **PINAL-GILA COUNCIL FOR SENIOR CITIZENS** (The PGCSC)
 and **GILA COUNTY DIVISION OF HEALTH AND COMMUNITY SERVICES**
 (The Provider)
 located at **5515 South Apache St., Ste. 200, Globe, AZ 85501**

The PROVIDER is: Private Non-Profit Corporation
 Corporation
 Other: County Government

WHEREAS, THE PGCSC is duly authorized to execute and administer contracts under A.R.S. §41-1953.1 et seq.; and,

WHEREAS, THE PGCSC desires that THE PROVIDER deliver services and THE PROVIDER has agreed to deliver services pursuant to the terms and conditions herein;

THEREFORE, THE PGCSC AND THE PROVIDER agrees to abide by all the terms and conditions set forth in this Contract.

This document, its annexes, appendices and attachments, including any subcontracts, amendments and modifications shall constitute the entire Contract between the parties, and supersedes all other understandings, oral or written.

FOR AND ON BEHALF OF THE PGCSC:


 SIGNATURE

Olivia B. Guerrero, M.S.
 TYPE NAME

EXECUTIVE DIRECTOR
 TITLE

7-6-09
 DATE

0010-0444
 CONTRACT I.D. NUMBER

FOR AND ON BEHALF OF THE PROVIDER:


 SIGNATURE

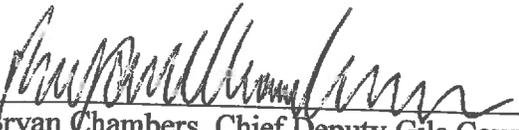
Shirley L. Dawson
 TYPE NAME

Chairman, Gila County Board of Supervisors
 TITLE

7/28/09
 DATE

86-000444
 FEDERAL I.D. NUMBER

APPROVED AS TO FORM:



Bryan Chambers, Chief Deputy Gila County
Attorney

7 / 14 / 9

Date

PROGRAM/ADMINISTRATION SECTION

1.0 Authorized Signatory for Contractor:

1.1 Gila County Division of Health and Community Services
PROVIDER AGENCY NAME
5515 S. Apache Ave., Ste. 200, Globe, AZ 85501
Address

FEI No. 86-000444
FEDERAL EMPLOYER IDENTIFICATION NUMBER
928-425-7631
Phone Number

1.2 Shirley L. Dawson
Name of Authorized Signatory

Chairman, Gila County Board of Supervisors
Title

is the signatory to this Contract on behalf of the Contractor and is responsible for the delivery of Contract Services during the term of this Contract.

1.3 In the absence of the principal authorized signatory named above, David J.H. Fletcher
Name
Director, Div. Health & Community Services is authorized to sign this Contract and any amendments thereto on behalf of the
Title
 Provider.

2.0 Notices:

2.1 The PGCSC AAA shall address all notices relative to this Contract to the attention of:

Malissa Buzan CAP/Housing Services Manager
Name and Title

5515 S. Apache Ave. Suite 200 Globe Az 85501
Address (928) 425-7631 Ext. 8693
Phone Number

FAX: (928) 425-9468 E-MAIL: mbuzan@co.gila.az.us

2.2 Daily contact regarding programmatic issues for this contract:

Malissa Buzan, Housing Services Manager
Name and Title

5515 S. Apache Avenue, Globe, AZ 85501
Address (928) 425-7631 Ext. 8693
Phone Number

FAX: (928) 425-9468 E-MAIL: mbuzan@co.gila.az.us

2.3 Financial contact for issues regarding this contract::

Bree'na York, Fiscal Manager
Name and Title

5515 S. Apache Avenue, Globe, AZ 85501
Address (928) 425-7631 Ext. 8667
Phone Number

FAX: (928) 425-9468 E-MAIL: byork@co.gila.az.us

2.2 The Provider shall address all notices relative to this Contract to the attention of:

Olivia B. Guerrero, President/CEO
 Pinal-Gila Council for Senior Citizens, Inc.
 8969 W. McCartney Road
 Casa Grande, AZ 85194-7432

Phone: 520-836-2758
 Fax: 520-421-2033
 E-Mail: oliviag@pgcsc.org

3.0 Contract Term:

The term of this Contract shall begin on July 1, 2009
 ■ or the date of last signature, whichever is later, and shall terminate on June 30, 2010

4.0 **Contract Purpose:** The Contract Services to be provided during the term of this Contract shall address the problem(s) and need(s) and seek to achieve program goals described below.

The target populations and needs are identified and specified in the Area Agency on Aging Area Plan for Services and the Area Plan Amendments.

Contract Goal: To plan, coordinate and implement a comprehensive system of services for the elderly in accordance with the Older Americans Act of 1965 (42 U.S.C., and 3001, et. seq.); the OAA Regulations 45 CFR part 1321); DHHS Grant Administration Regulations (45 CFR part 74); and other applicable laws, rules and policies.

5.0 Contract Services and Service Delivery

5.1 Scopes of Work:

Each Contract Service to be provided during the term of this Contract shall be delivered in accordance with the requirements indicated in this contract.

5.2 Subcontractor

Any portion of the Contract Services to be provided under this contract by Subcontractors as identified in Section 5.6 of Annex A Section, the Contractor understands and warrants that no work shall be performed by a Subcontractor until the subcontract document has been reviewed by and approved in writing by the authorized PGCSC representative.

5.3 The Contract Services marked (x) below indicate the service(s) to be delivered during the term of this Contract to eligible persons are:

<input checked="" type="checkbox"/> Minor Home Repair/Renovation	<input type="checkbox"/> Congregate Meals	<u>Home Care Cluster:</u>
<input type="checkbox"/> Respite (Group)	<input type="checkbox"/> Home Delivered Meals	<input type="checkbox"/> Home Health Aid
<input type="checkbox"/> Respite (In-Home)	<input type="checkbox"/> Transportation	<input type="checkbox"/> Housekeeping
<input type="checkbox"/> Case Management	<input type="checkbox"/> Legal	<input type="checkbox"/> Nursing
<input type="checkbox"/> FCSP Case Management		<input type="checkbox"/> Personal Care

5.4 Eligibility Criteria, Intake Procedures and Case Records:

5.4.1 Eligibility Criteria

A. Title III:

Aging Services Eligibility criteria is limited to the descriptions in 45 CFR Part IV. "Grants for State and Community Programs on Aging," and Title XVI of the Social Security Act, as amended, and as identified in Aging & Adult Administration's Policy and Procedure Manual – 2004 and PGCSC Policies and Procedures.

B. Supplemental Payment Program:

Eligibility to be determined by case management agency. Clients eligible for the Supplemental Payment Program must meet the following criteria in order to receive services from the contractor.

1. Be eligible for and receiving Supplemental Security Income (SSI).
2. Be 65 years of age or older if applying for Home Health or Visiting Nurse Services.

5.4.2 Intake Procedures

- A. Providers will be required to adhere to PGCSC's Central Intake System for all client tracked (case managed) services.
- B. As required for individual services per Aging & Adults Administration's Policy and Procedure Manual – 2004 and PGCSC policies and procedures.

5.4.3 Case Records

Case records shall be maintained as specified in the Aging & Adult Administrations Policy and Procedures – 2004 and PGCSC policies and procedures.

5.5 Staffing:

Each Contract Service shall be provided by the following personnel positions:

Contract Service Name	Position Title	No. of FTEs	Ratio of Direct Care Staff to Clients
Minor Home Repair	Housing Services Program Manager	1	n/a
	Housing Rehab Specialist	1	n/a
	Housing Services Administrative Assistant	1	n/a

5.6 Facility Location:

Contract Services may be delivered only at the facilities and locations specified below and shall be available during the hours of operation indicated:

NAME OF FACILITY, ADDRESS, PHONE AND FAX NUMBER WHERE THE SERVICES WILL BE PROVIDED. (IF SERVICES ARE PROVIDED IN CLIENTS HOME, LIST INFORMATION FOR FACILITY PRIMARY OFFICE LOCATION)	CONTRACT SERVICE(S)	SUBCONTRACTOR	DAYS AND HOURS OF OPERATION	GEOGRAPHIC COVERAGE
Gila County Division of Health and Community Services 5515 S. Apache Street, Suite 200 Globe, AZ 85501 Phone: (928) 425-7631 Toll Free: 800-304-4452 Fax: (928) 425-9468	Minor Home Repair		Mon - Friday 8am to 5pm	Gila County

- The facility(s) listed above will not be open on those holidays marked below (darken box for applicable holidays):
- | | | | |
|--|--|--|--|
| <input checked="" type="checkbox"/> New Year's Day | <input type="checkbox"/> Good Friday | <input type="checkbox"/> Yom Kippur | (Other Holidays)
<input type="checkbox"/> _____
<input type="checkbox"/> _____
<input type="checkbox"/> _____
<input type="checkbox"/> _____ |
| <input checked="" type="checkbox"/> Martin Luther King Jr.'s Birthday | <input checked="" type="checkbox"/> Memorial Day | <input checked="" type="checkbox"/> Columbus Day | |
| <input type="checkbox"/> Lincoln's Birthday | <input checked="" type="checkbox"/> Independence Day | <input checked="" type="checkbox"/> Veteran's Day | |
| <input type="checkbox"/> Washington's Birthday | <input checked="" type="checkbox"/> Labor Day | <input checked="" type="checkbox"/> Thanksgiving Day | |
| <input checked="" type="checkbox"/> President's Day | <input type="checkbox"/> Ros Hashanah | <input checked="" type="checkbox"/> Christmas Day | |
| <input type="checkbox"/> The holidays indicated above apply only to the administrative office; services are provided 24 hours. | | | |

PINAL-GILA COUNCIL FOR SENIOR CITIZENS
ANNEX B

CONTRACT I.D. NUMBER: 0010-0444

GILA COUNTY DIVISION of HEALTH and COMMUNITY SERVICES

- Area Agency on Aging, Region V (AAA)
- Supplemental Payment Program (SPP)
- Title V
- United States Department of Agriculture (USDA)
- Arizona Long Term Care System (ALTCS)

1.0 REIMBURSEMENT/PAYMENT CEILING:

The maximum contract reimbursement/payment ceiling for all services provided during the term of the Contract and/or for the period specified shall be:

Amount during the Contract Term \$ 10,500

If this contract is extended or renewed for multiple periods, or is established as a multi-year contract in its entirety or in part, and Pinal-Gila Council for Senior Citizens establishes a reimbursement ceiling for each contract extension or renewal period, the amounts by period are as indicated below.

Maximum amount during the period from July 1, 2009 to June 30, 2010 is \$10,500

The method of compensation shall be in accordance with Section 2.0 of this Compensation Section.

2.0 COMPENSATION

Subject to the availability of funds, Pinal-Gila Council shall compensate the Provider for allowable direct and/or indirect costs incurred in the delivery of the Contract Services designated in Annex A, Section 5.0, provided that services are delivered during the term of the Contract and in accordance with the terms and conditions set forth in this Contract.

Pinal-Gila Council for Senior Citizens shall make payments in accordance with the following:

2.1 Rate *Note: This section is not applicable unless the box is either darkened or marked with an "X".*

The maximum reimbursement ceiling for each contract service shall be a specified below and as designated in the attached Contract Operating Budget of this contract. One unit of service equals the definition of a unit of service as specified in the Service Specifications for each service listed, below and, which are attached to Annex A Section of this Contract.

A ten percent (10%) non-federal match is required for each PGCSC dollar awarded for any respite service contract. This non-federal match may be either cash or in-kind. Program Income cannot be considered a part of the match.

Service(s)	Rate/Per Unit	Maximum # of Units	Service Payment Ceiling

2.2 Fixed Price with Price Adjustment *Note: This section is not applicable unless the box is either darkened or marked with an "X".*

Reimbursement by Pinal-Gila Council for Senior Citizens shall be for completion of the tasks set forth in the Service Specifications contained in Annex A of this contract.

A ten percent (10%) non-federal match is required for each PGCSC dollar awarded. This non-federal match may be either cash or in-kind.

The maximum service reimbursement ceiling for each Contract Service shall be as specified below and as designated in the attached Contract Operating Budget:

Service(s)	Service Payment Ceiling
Minor Home Repair (RPR)	\$10,500

3.0 METHOD OF PAYMENT

Upon receipt of required reporting documents, subject to the availability of funds, Pinal-Gila Council shall reimburse the provider on a monthly basis in accordance with Section 4.04 Payment of the General Provisions for costs incurred in the delivery of Contract Services during the term of this Contract that are consistent with the approved operating budget(s) contained herein as Attachment A to this Annex (Contract Operating Budget).

Payment shall be subject to the following limitations and exceptions:

- A. Title 45 CFR, Part 74, Section 74.61 (e) requires that cash reimbursements be timed to coincide with cash disbursements made with federal funds.
- B. PGCSC/AAA shall be the payor of last resort. Other funds sources (cash, in-kind and program income) shall be applied to reported expenditures first. The Provider shall bill all available third party payors including AHCCS acute care provider(s), ALTCS, Medicare or private insurance, before charging any of the funds identified under 2.1 above.
- C. Payments allocated to State Supplemental Payments for Home Health and Visiting Nurse services shall be based on the number of eligible SSI clients and the monthly per client payment ceiling established by statute (A.R.S. Subsection 46.252).
- D. Payment for services that are case managed shall only be made for units that are within authorization levels and time frames.
- E. **The Monthly Financial Report must be received on the approved Pinal-Gila Council forms on or before the 10th day of each month. Failure to comply by the 10th day of any month will result in immediate cessation of disbursement of funds by Pinal-Gila Council to the provider until the required reports are received.**
- F. The Provider agrees to adhere to the approved Contract Operating Budget, Attachment A of this Annex, within the tolerance levels established in Section 4.03 Amendments of the General Provisions.
- G. During this Contract period, each revenue source will support expenses and the production of units of service in direct proportion to the actual reported receipts of each revenue as a percentage of total reported revenue.
- H. A Final Report must be received within 30 days following the termination of this Contract. This final report shall identify total, actual expenditures line item for the entire term of the contract. Failure to submit the final report within the prescribed time frame could cause the Provider to forfeit final payment.
- I. In the event of a contract termination, a Final Payment, under this contract, shall be made only upon receipt and reconciliation of an accurate and complete Financial Report (AG-053), which must be submitted within 30 days following termination of this contract. The request for final payment shall identify actual expenditure by line item. A final payment shall be made following reconciliation of the entire contract, to include revenues, expenditures and program reports by PGCSC.
- J. A written amendment signed by both parties shall be required as outlined in PGCSC Uniform General Terms and Conditions, Section 3. Amendments.

3.1 Arizona Long Term Care Services (ALTCS)

Payment shall be made for ALTCS Services on a basis consistent with the approved Contract Operating Budget(s) and in accordance with the unit definitions specified in the individual Service Specifications contained in Annex A.

During the term of this Contract, the payment for Home Delivered Meals shall be established at \$0.00.

4.0 REPORTING REQUIREMENTS

4.1 **Financial Reporting Requirements**

In accordance with Section 3.15 Reporting Requirements of the General Provisions, the Provider shall submit the following Monthly Financial Report on or before the 10th day of the month:

- A. AG-053 Report (or a computer printout following the same format which has been approved by the PGCSC.

4.2 **Program Reporting Requirements**

In accordance with Section 3.15 Reporting Requirements of the General Provisions, the Provider shall submit the following Program reports on or before the 10th day of the month or as designated:

- A. Pinal-Gila Council for Senior Citizens/AAA
 - Congregate Monthly Meals Report (10th)
 - Home Delivered Meals Monthly Meals Report (10th)
 - Monthly Social Services (10th)
 - Congregate Meals Registration Form w/Nutrition Score - Weekly
 - Service Utilization Log (Service Log) (3rd)
 - Monthly Education/Activities Report (10th)
 - Calendar of Activities (10th)
 - Food Cost Report (10th)
 - Nutrition Education Report (10th)
 - Transportation Summary Sheet (10th)
 - Menu Cycle for RD approval - Quarterly
 - Outreach Report - Quarterly
 - Non-Client Supportive Service Report – FCSP and roster (10th)
 - Monthly, Ramp Loan Report (10th)
- B. Supplemental Payment Program
 - ASCAP – Arizona Standardized Client Assessment Form (3rd)
- C. Arizona Long Term Care Services (ALTCS)
 - PG001 – Monthly Log of ALTCS Home Delivered Meals (3rd)

4.3 The reports require in 4.1 and 4.2 shall be submitted to:

Pinal-Gila Council for Senior Citizens
 8969 W. McCartney Road
 Casa Grande, AZ 85194-7432

or delivered to:

Pinal-Gila Council for Senior Citizens
 8969 W. McCartney Road
 Casa Grande, AZ 85194-7432

5.0 DELIVERY AND UNITS OF SERVICE

5.1 Delivery of Service:

PGSCS must be notified, and approval may be required, prior to any modifications affecting the delivery of services, which include, but may not be limited to the following:

- A. Decrease/increase in the number of days of operation for any facility listed in Annex A, part 5.6.
- B. Significant changes in the delivery of the hot and/or frozen meal schedule.
- C. Revisions to the service methodology of any service specifications.
- D. Changes in the "suggested donation."
- E. The provider shall notify the PGSCS, immediately, if it becomes apparent that the units of service specified in this contract will not be fulfilled to, at least, a ninety percent (90%) level.

5.2 Level of Service

During the term of this contract, the provider shall deliver the number of units of each Contract Service specified below:

SERVICE	UNITS OF DIRECT SERVICE	UNITS PURCHASED SERVICE
Minor Home Repair (RPR)	45	

- 1) Direct Service means services performed by the contractor.
- 2) Purchase Service means services purchased via a subcontract by the contractor.

6.0 Client Contributions:

The Provider shall be responsible for accepting program income toward the cost of services and the program income shall be used to provide services under this contract.

7.0 Books and Records:

The Provider shall keep adequate books and records relating to contract services and contract expenditures. Contract service records will be maintained in accordance with PGCSC policies and procedures. Financial records will meet the following standards at a minimum: (1) adequately identify the service and application for contract and subcontract activities; (2) include personnel records which contain application for employment, job titles and descriptions, hire and termination dates, wage rates, effective dates of personnel actions affecting any of these times; (3) include time and attendance records for individual employees to support all salaries and wages paid; (4) include records of the source of all receipts and the deposit of all funds received by the Contractor; (5) include original copies of invoices, statements, sales tickets, billings for service, etc., and a cash disbursement journal and cancelled checks to reflect all disbursement applicable to the contract; (6) include a copy of a written, approved cost allocation plan to reflect the manner in which direct, indirect, and allocated costs were to be charged to the contract; (7) include copies of lease/rental agreements, mortgages or any other agreements which in any way may affect contract expenditures. (8) maintain client signatures signifying receipt of each unit of service, as applicable. Any such records not maintained shall mandate an audit exception in the amount of the inadequately documented expenditure.

PINAL-GILA COUNCI FOR SENIOR CITIZENS
 CONTRACT OPERAT BUDGET

Attachment A

Agency Name: Gila County Community Services Division Contract Number: 0010-0444
 FOR PERIOD From: 7/01/09 To: 6/30/10 Prepared by: M. Buzan Date: July 1, 2009

REVENUES										
Services	Home Repair (RPR)									GRAND TOTAL
Totals	10,500	0	0	0	0	0	0	0	0	10,500
AREA AGENCY CEILING	10,500									10,500
TITLE V										10,500
J.S.D.A.										0
ALTCS										0
OTHER CEILING										0
OTHER CEILING										0
OTHER CEILING										0
REIMBURSEMENT CEILING	10,500	0	0	0	0	0	0	0	0	0
PROGRAM INCOME										10,500
NON-FEDERAL INKIND										0
NON-FEDERAL CASH										0
OTHER NON-FEDERAL CASH										0
TITLE V										0
OTHER FEDERAL										0
TOTAL REVENUE	10,500	0								0
Budget Categories										
EXPENSES										
Personnel										0
RE										0
Professional/Outside	10,000									0
Travel										10,000
Space										0
Equipment										0
Material/Supplies	500									0
Operating Svcs.										500
Allocated Indirect										0
TOTAL EXPENSES	10,500	0								10,500
SUBTOTAL/Direct Svcs.										10,500
SUBTOTAL/Purchased Svcs.	10,500	0								10,500
SERVICE TOTAL	10,500	0	0	0	0	0	0	0	0	10,500
No. of Units Direct										0
No. of Units Purchased	45									0
Unit Rate/Direct										
Unit Rate/Purchased	233.33									
Unit Rate/Contract										

COST ALLOCATION PLAN

July 1, 2009 Through June 30, 2010

Cost

Minor Home Repair

Allocation

69 clients assisted with \$240 per unit
x 100% charged to Pinal Gila Council for
Senior Citizens funding.

SCOPE OF WORK

7.12 HOME REPAIR / RENOVATION

7.12.1 Service Definition

A service that provides for safety and/or structural repairs to the home.

For purposes of the Family Caregiver Support Program, this service is to be provided, on a limited basis, to complement the care provided by the caregiver.

7.12.2 Program Information

- a) The goals of the service are to increase or maintain independence of eligible individuals and to increase the individual's mobility, safety, and access to and around the home.
- b) Any provider who delivers the service must receive an orientation to the Contractor's agency and to the target group being served.
- c) The maximum amount that may be spent in a 12-month period for any one individual is \$1,500 per fund source. All other available resources should be examined and utilized prior to providing this service.

7.12.3 Reporting Unit

- a) One unit of service equals one repair or adaptation.

7.12.4 Service Standards

The Contractor shall comply with the following standards:

- a) All repairs and adaptations must conform to local building and zoning codes.

7.12.5 Service Requirements

The Contractor shall comply with the following service requirements:

- a) Assess the adequacy of the individual or caregiver's residence in relation to his/her needs and specify the needed structural repairs or adaptations.
- b) Adapt, repair or build structural items which increase the person's ability to perform activities of daily living independently or which eliminate unsafe conditions, such as, but not limited to:
 - i. building of ramps.
 - ii. cooler and heater repair/maintenance.
 - iii. widening of doorways.
 - iv. installation of grab bars.
 - v. screen repair.
 - vi. installation of safety mats.
 - vii. window repair.
 - viii. minor roof repair.
 - ix. door repair.
 - x. floor repair.
- c) Any adaptations to be done to rental property must have prior signed consent of the owner/landlord.

PROPOSERS QUESTIONNAIRE – MINOR HOME REPAIR

All Proposers must answer the following questions. In the space provided respond to the following questions. Responses should be concise and when appropriate measurable.

- 1. CLIENT CONTRIBUTIONS:** Explain your method for soliciting contributions from participants, security procedures, accounting and cash handling procedures. Identify staff responsible for implementing this procedure.

Gila County Division of Health and Community Services Housing Services Department staff will explain to each minor home repair recipient of the opportunity to contribute towards this program. During the application process and/or at the service call, each recipient will be given a "Client Contribution Information Sheet", which notifies them of the opportunity to contribute to the program. This form states that they will not be denied services if they do not contribute.

If any contributions are received, the Senior Accounting Technician will prepare a Gila County Treasurer's Receipt form and the donation will be deposited into the Pinal/Gila Council for Senior Citizens Minor Home Repair Program account.

- 2. TARGETING:** How will the provider ensure that those in greatest economic or social need, with particular attention to low-income minority persons, are given priority service. Please refer to Outreach/Targeting Agreement for further clarification.

The Gila County Division of Health and Community Services will target persons living in Gila County who are aged sixty (60) years or over or under sixty (60) years who have a disability and do not have the resources to pay for and/or provide the repair themselves. The target population will exclude persons living on Indian Reservations. Persons whose incomes fall at or below 150% of the Federal Poverty Income guidelines will be given priority for assistance, although higher incomes will not exclude persons from receiving assistance.

3. **OUTREACH:** In addition, identify the specific outreach activities that will be conducted to reach and inform those in greatest social or economic need of the availability of the program. Provide a timetable for completing these activities.

Gila County Division of Health and Community Services outreach activities will be as follows:

- Public Service Announcements will be placed in newspapers throughout Gila County to announce the receipt of the funding award.
- In March 2009, Public Service Announcements will be placed in newspapers and on radio stations to inform the public of the availability of funding for minor home repair. The Housing Services Program Manager will announce the funding at Inter-Agency Meetings in the Globe and Payson areas. Staff of local social service agencies (Salvation Army, ADES, etc) will also be notified at this time.
- April 2009 through June 30, 2009, staff will continue to promote the program through interaction with clients who are seeking any type of services that the division offers. If funding is not available, this activity will not take place.

4. **INTAKE PROCESS:** Briefly describe the process that is used for intake, to include time frame between intake and assessment, information taken at intake, how determination at intake is made that an assessment is needed and any other information that would help in understanding the intake process

The intake process will be done by several methods. The first method will be by telephone, clients can call in to the Housing Services Department and a staff member will take the minor home repair application at that time. The second process is in person, clients can come into the Division of Health and Community Services office and their application will be taken. The third method is by referral from another agency/person who is involved with the client and can apply for services on their behalf.

Information that is required to apply for minor home repair is basic including: name, address, telephone number, social security number, birth date, income, and if there is an emergency need at the time. Determination of eligibility will be done at the time of the application.

An assessment of the need for services will be performed at the intake and will help determine what type and how urgent minor home repairs are needed.

5. **ASSESSMENT PROCESS:** Briefly describe the assessment process that is used to determine that the work requested for the individual's and/or caregiver's residence is in relation to his/her needs and will improve the safety and increase the individual's ability to live independently.

The assessment process for the minor home repair program will start at intake. If there is an emergency* situation in the home, our staff will have a contractor go to the home and assess the adequacy of the residence to meet the clients need and to determine how to best resolve the situation. Staff will address emergency situations within 24 hours of notification. Only measures that are considered as normal home repairs (i.e. heating/cooling systems, water heaters, plumbing, gas lines, electrical wiring, ramps, grab bars, etc.) are eligible for assistance under the minor home repair program.

*emergency = situation which poses an imminent threat to the health and safety of the occupants of the home.

Pandemic Performance Plan

1. Pinal-Gila Council for Senior Citizens shall require a written plan that illustrates how the provider agency shall perform and maintain contractual standards in the event of a declared pandemic. At a minimum, the pandemic performance plan shall include:

- A. Key succession and performance planning if there is a sudden significant decrease in the provider's workforce.

The Division of Health and Community Services has developed an Telephonic Response Plan in the event of a declared pandemic. See attachment for more information regarding the Gila County D.H.C.S. plan.

- B. Alternative methods to ensure there are services or products in the supply chain.

See attachment for Telephonic Response Plan

- C. An up to date list of company contacts. (Attachment)

The information included in the Telephonic Response Plan is confidential and cannot be distributed.

OUTREACH/TARGETING POLICY AGREEMENT

In accordance with the Older Americans Act, as amended, each provider contracting with PGCSC/AAA Region V, agrees to continue their efforts of targeting their services to older persons with greatest economic or social need with particular attention to low-income minorities, older individuals with limited English proficiency, isolated rural elders, Native Americans and severely disabled elderly through various methods such as:

To promote programs which increase service accessibility and availability to the targeted population.

To educate individuals on available benefits and services provided with Older American Act funds and the Area Agency on Aging, social service agencies, and the support service network.

To network with other community agencies that provide support services to enhance the availability of services and resources for the targeted population.

To provide prevention and general intervention services when needed for the targeted population.

To provide advocacy services as needed with/on behalf/or for the targeted population.

To assist in developing policy and system changes within the community to assist the well-being of the targeted population.

To identify the targeted population through various outreach techniques.

To provide information and referral or assistance as needed to the targeted population.

To request technical assistance related to the contract services from PGCSC/AAA, as needed.

To document these services within the Monthly Educational Program/Special Activity Report.

To translate materials and flyers relating to program activities and access, when possible.

To continue the activities that the subcontractor has submitted in their outreach and targeting statement included in this contract.

To provide culturally relevant programs which address the specific needs of the targeted population.

To serve each low-income minority elderly group in at least the same proportion, as they exist in their service boundary area.

To obtain program and/or advisory public input from specific ethnic minority communities, i.e., groups, organization, individuals, institutions, etc.

To provide client access to bilingual and/or bicultural persons/staff to accommodate those elderly who speak limited English.

To use minority volunteers in direct service when possible.

To provide opportunities for staff to obtain training in cultural differences and specific needs of the low-income minority elderly.


Signature

2/25/09
Date

VIII. METHOD OF EVALUATION

Each person assisted with this program will be provided with a Follow-Up Form and a self-addressed, stamped envelope to return to Housing Services. The client is requested to evaluate the quality and timeliness of the service they have received and return the form within 30 days.

The Follow-Up Forms are retained in the client file.

Service Methodology

Service Tasks:

Objective 1 – To increase the individual's mobility, safety and access to and around the home.

Tasks:

- 1.1 Assess the adequacy of the person's residence in relation to his/her needs and specify the needed structural repairs or adaptation.
- 1.2 Adapt, repair or build structural items, which increase the person's ability to perform activities of daily living independently or which eliminate unsafe conditions.

Housing Services Department is a department of the Gila County Division of Health and Community Services, plans to assist a minimum of 70 persons from July 1, 2009 through June 30, 2010 with minor home repair/adaptations.

Types of repairs/adaptations eligible (but not limited to) under this program will include:

Building of ramps	Cooler and Heater repair/maintenance
Widening of doorways	Installation of grab bars
Screen repair	Installation of safety mats
Window repair	Minor roof repair
Door repair	Floor repair

Persons eligible for this program will be those who are Gila County residents who are persons aged sixty (60) and over or those under age sixty (60) who have a disability. Priority will be given to those who have no other resources to provide the repair/renovations for themselves. The maximum benefit will be \$240.00 per household assisted.

The method in which the program will operate is:

1. Outreach will be done at various social service agencies and events and through local press releases to inform of service availability.
2. Applications will be taken by telephone or by appointment.
3. A voucher for the bid amount price will be issued to a local licensed vendor on behalf of the person to be assisted. A copy of the voucher to be used is attached.

Housing Services will use funds awarded in contract with Pinal-Gila Council for Senior Citizens during the period toward the operation of the home repair/renovation program.

All the services listed above shall be performed by the Housing Services Manager, Administrative Assistant, Rehab Specialist, or Senior Accounting Technician.

PINAL-GILA COUNCIL FOR SENIOR CITIZENS UNIFORM GENERAL TERMS AND CONDITIONS

1. Definitions As used in these terms and conditions, the following terms have the following meaning:
- 1.1 **"Annex A"** is the annex to this Contract, which contains a description of the services to be delivered pursuant to this Contract.
 - 1.2 **"Annex B"** is the annex to this Contract, which contains the approved budget, level of service and any conditions for payment for the delivery of service(s) pursuant to this Contract.
 - 1.3 **"Attachment"** means any item the Solicitation requires the Offeror to submit as part of the Offer.
 - 1.4 **"Begin Date"** means the date that the contractor may start to provide services under this contract. The contractor will not be paid or reimbursed for contract services provided prior to the Begin Date. However, payments or reimbursements shall not be made under this contract until the effective date of this contract.
 - 1.5 **"Equipment"** means all vehicles, furniture, machinery, electronic data processing (EDP) equipment, software and all other equipment having an acquisition cost of \$1,000.00 or more, including all normal and necessary expenses incurred to make the equipment ready for its intended use (e.g., tax, freight, installation, assembly and testing charges, etc.), and with a useful life of greater than one year. Equipment as used herein does not include real property (e.g., land, buildings, structures or other facilities; improvements).
 - 1.6 **"Compensation"** means that part of this contract that contains the approved method of payment or reimbursement, which may include a budget or fee or rate for the delivery of service(s) pursuant to this contract. Compensation also means Cost or Price.
 - 1.7 **"Contract"** means the combination of the solicitation, including the Uniform and Special Instruction to offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
 - 1.8 **"Contract Amendment"** means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
 - 1.9 **"Contract Expenditures"** means expenditures made by the Contractor during the term of this Contract and pursuant to the approved budget for Contract Services set forth in Annex B.
 - 1.10 **"Contract Services"** means the services to be delivered by the Contractor that are so designated in Annex A.
 - 1.11 **"Contractor:"** means any person or entity who has a Contract with Pinal-Gila Council for Senior Citizens.
 - 1.12 **"Days"** means calendar days unless otherwise specified.
 - 1.13 **"Department"** means Pinal-Gila Council for Senior Citizens (PGCSC_).
 - 1.14 **"Eligible Persons"** means the persons determined eligible for contract services in accordance with the criteria set forth herein.
 - 1.15 **"Exhibit"** means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
 - 1.16 **"Fiscal Year"** means the period beginning with July 1 and ending June 30.
 - 1.17 **"Gratuity"** means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal of greater value is received.
 - 1.18 **"Materials"** means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

- 1.19 **Procurement Officer** means the Pinal-Gila Council for Senior Citizens President/CEO, who is duly authorized to enter into and administer contract and make written determinations with respect to the contract or his or her designee.
- 1.20 **Reimbursement Ceiling** means the amount so designated in Annex B and is the maximum amount payable by Pinal-Gila Council for Senior Citizens under this contract.
- 1.21 **PGCSC** is Pinal-Gila Council for Senior Citizens, is the designated Area Agency on Aging (AAA) for Region V.
- 1.22 **Scope of Work** means the description of service(s) to be provided pursuant to this contract. Scope of Work also means "Service".
- 1.23 **Services** means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.24 **Subcontract** means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.25 **Vulnerable adult** means an individual who is eighteen (18) years of age or older who is unable to protect him/herself from abuse, neglect or exploitation by others because of a physical or mental impairment.

2. Contract Interpretation

- 2.1 **Arizona Law.** The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
- 2.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 **Contract Order of Precedence.** In event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1 Special Terms and Conditions;
 - 2.3.2 Uniform Terms and Conditions;
 - 2.3.3 PGCSC Uniform General Terms and Conditions;
 - 2.3.4 Annex A, Statement or Scope of Work;
 - 2.3.5 Specifications – Methodology;
 - 2.3.6 Annex B, Budget and Conditions of Payment
 - 2.3.7 Attachments;
 - 2.3.8 Exhibits; and
 - 2.3.9 Documents referenced or included in Solicitation.
- 2.4 **Relationship of Parties.** The Contractor under this Contract is an independent Contractor. Neither part to this Contract shall be deemed to be the employee or agency of the other party to the Contract. In the event that the Contractor or its personnel is sued or prosecuted for conduct arising from the contract, the Contractor or their personnel will not be represented by PGCSC.
- 2.5 **Severability.** The provisions of this contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6 **No Parol Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in the document and no other understanding either oral or in writing shall be binding.

2.7 **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation.

3.1 **Records.** Under A.R.S. §35-214 and §35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State and PGCSC at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.1.1 Contract service records will be maintained in accordance with this contract. Any such records not maintained shall mandate an audit exception in the amount of the inadequately documented expenditures. Records shall, as applicable, meet the following standards:

3.1.1.1 Adequately identify the service provided and each service recipient's application for contract and subcontract activities;

3.1.1.2 Include personnel records which contain application for employment, job titles and descriptions, hire and termination dates, wage rates, and effective dates of personnel actions affecting any of these items;

3.1.1.3 Include time and attendance records for individual employees to support all salaries and wages paid;

3.1.1.4 Include records of the source of all receipts and the deposit of all funds received by the contractor;

3.1.1.5 Include original copies of invoices, statements, sales tickets, billings for services, deposit slips, etc., and a cash disbursement journal and cancelled checks to reflect all disbursements applicable to the contract;

3.1.1.6 Include a complete general ledger with accounts for the collection of all costs and/or fees applicable to the contract; and,

3.1.1.7 Include copies of lease/rental agreements, mortgages and/or any other agreements which in any way may affect contract expenditures.

3.2 **Non-Discrimination.** The Contractor shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.2.1 Unless exempt under Federal law the contractor shall comply with Title VII of the Civil Rights Act of 1964 as amended. Contractor shall comply with the Age Discrimination in Employment Act. The contractor shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap. The contractor shall comply with the requirements of the Fair Labor Standards Act of 1938, as amended.

3.2.2 If contractor is an Indian Tribal Government, contractor shall comply with the Indian Civil Rights Act of 1968. It shall be permissible for an Indian Tribal contractor to engage in Indian preference in hiring.

3.2.3 The contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits the denial of benefits of or participation in contract services on the basis of race, color, or national origin. The contractor shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, in delivering contract services; and with Title II of the Americans with Disabilities Act, and the Arizona Disability Act, which prohibit discrimination on the basis of physical or mental disabilities in the provision of contract programs, services and activities.

3.2.4 The following shall be included in all publications, forms, flyers, etc. that are distributed to recipients of contract services:

"Under the Americans with Disabilities Act, the *(insert Contractor name here)* must make a reasonable accommodation to allow a person with a disability to take part in a program, service, or activity. For example, this means that if necessary, the *(insert Contractor name here)* must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the *(insert Contractor name here)* will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. Please contact: *(insert Contractor contact person and phone number here)*"

3.3 **Audit.** Pursuant to ARS §35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and PGCSC, and where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.3.1 In compliance with the Federal Single Audit Act (31 U.S.C. Sections 7501-7507), as amended by the Single Audit Act Amendment of 1996 (P.L. 104 to 156), contractors designated as subrecipients, as prescribed by the President's Council on Integrity and Efficiency Position Statement No. 6, expending Federal funds from all sources totaling \$300,000 or more (\$500,000 for fiscal years ending after December 31, 2103) must have a yearly audit conducted in accordance with the audit and reporting standards as prescribed in OMB Circular A-133 (A-133). The audit must include the Reporting Package as outlined in A-133. The Department's contract numbers and award amounts must be included in a separate schedule, if not included on the Schedule of Federal Financial Assistance. A copy of the Audit Report, Management Letter and Auditors Opinion must be submitted to the Department's office of Audit and Management Services within thirty (30) days after completion of the audit to the Department person designated to receive notices.

3.3.2 All contractors are subject to the programmatic and fiscal monitoring requirement of each Department program to insure accountability of the delivery of all goods and services, as required under the Federal Single Audit Act. A minimum fiscal requirement for all contractors designated as vendors is an annual financial audit, which includes Department contract numbers and award amounts. The Audit Report, Management Letter and Auditor's Opinion must be submitted to the Department person designated to receive notices within thirty (30) days after completion of the audit.

3.3.3 As prescribed in OMB Circular A-133, for-profit subrecipients are subject to compliance requirements established by the Department. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-wards audits, Department monitoring during the contract, and post-award audits.

3.3.4 Audits of non-profit corporation receiving Federal or State monies required pursuant to Federal or State law must be conducted as provided in 31 U.S.C. Section 7501 et seq. and A.R.S. Section 35-181.03 and any other applicable statutes, rules regulations and standards.

3.4 **Facilities Inspection and Materials Testing.** The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. PGCSC shall also have the right to test at it own cost the materials to be supplied under this Contract. Neither inspection at the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If PGCSC determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 **Notices.** Notices to the Contractor required by this Contract shall be made by the PGCSC to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to PGCSC required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an Authorized Contractor representative may change their respective person to whom notice shall be given by written notice and an amendment to the Contract shall not be necessary. In the event that no person is designated to receive notices, then notices shall be sent to the contract signatory. All notices shall reference the contract number.

- 3.5.1 The Contractor shall give written notice to PGCSC of changes to the following, and a written amendment to the contract shall not be necessary and all such notices shall reference the contract number:
 - 3.5.1.1 Change of address of business office;
 - 3.5.1.2 Change of telephone number;
 - 3.5.1.3 Changes in the name and/or address of the person to who notices are to be sent;
 - 3.5.1.4 Changes in contract-related personnel positions of the contractor which do not affect staffing ratios, staff qualifications or specific individuals required under this contract;
 - 3.5.1.5 Change in the name of the contractor, where the ownership or responsible entity remains the same; or
 - 3.5.1.6 In a fixed price with price adjustment contract, whenever there is less than a 10% increase in any budget category; any such increase must be offset by an equal value decrease in another budget category or categories.
 - 3.5.1.7 Where a change does not fall within 3.5 or its subsections, the Contractor must obtain approval from the Procurement Officer prior to effecting the changes.
- 3.6 **Advertising Publishing and Promotion of Contract.** The Contractor shall not use, advertise or promote information for commercials benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7 **Property of PGCSC.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of PGCSC. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of PGCSC.
- 3.8 **Ownership of Intellectual Property.** Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and PGCSC shall be considered the creator of such Intellectual Property. PGCSC shall own the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify PGCSC, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in PGCSC and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than PGCSC. The intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not PGCSC without the express written authorization of PGCSC.

4. Costs and Payments

- 4.1 **Payments.** Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from PGCSC within thirty (30) days.
 - 4.1.1 Payments shall be made according to the methods of compensation defined as follows:
 - 4.1.1.1 **Rate (or) Fixed Price** – The contractor is paid a specified amount for each unit of service or deliverable as designated in the contract, not to exceed the maximum number of units indicated for each contract service/deliverable. PGCSC may authorize unit in incremental amounts throughout the term of the contract by amending the contract.

Fixed Price with Price Adjustment – Reimburse to the contractor is in accordance with actual, allowable costs incurred consistent with each service budget and/or budget summary not to exceed the service reimbursement ceiling. The contractor shall furnish PGCSC with an accounting of actual costs incurred consistent with the categories set forth in the service budget. Budget categories, to include cost items in a

category, may be deleted, added, or modified by a contract amendment, provided that the Total Service Cost shall not increase unless a price increase is permitted by renewal or extension of the contract.

- 4.1.1.2 The contractor shall report contract expenditures to PGCSC in the manner prescribed by the "Reporting Requirements" section of these terms and conditions. Upon receipt of applicable, accurate and complete reports, PGCSC shall authorize payment or reimbursement in accordance with the method(s) indicated by this contract.
- 4.1.1.3 If the contractor is in any manner in default in the performance of any obligation under this contract, or if audit exceptions are identified, PGCSC may, at its option and in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception.
- 4.1.1.4 Under no circumstances shall PGCSC make payment to the contractor that exceeds the contract or service reimbursement ceiling without an amendment to this contract. Under no circumstances shall PGCSC make payment to the contractor for service performed prior to or after the term of the contract without timely extension or renewal of the contract.
- 4.1.1.5 The Contractor may offer a price reduction adjustment at any time during the term of the contract. Any price reduction shall be executed by a contract amendment.
- 4.2 **Delivery.** Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3 **Applicable Taxes.**
 - 4.3.1 **Payment of Taxes.** The Contractor shall be responsible for paying all applicable taxes.
 - 4.3.2 **State and Local Transaction Privilege Taxes.** PGCSC is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.
 - 4.3.3 **Tax Indemnification.** Contractor and all subcontractor 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 State and PGCSC 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.
 - 4.3.4 **IRS W9 Form.** In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file, unless not required by law.
- 4.4 **Availability of Funds.** PGCSC may reduce payments or terminate this contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated or allocated. PGCSC has sole and unfettered discretion in determining the availability of funds. PGCSC and the contractor may mutually agree to reduce reimbursement to the contractor when the payment type is Fixed Price with Price Adjustment by executing a contract amendment.
- 4.5 **Availability of Funds for the Next Fiscal Year.** Funds may not presently be available for performance under this Contract beyond the current fiscal year. No legal liability on the part of the PGCSC for any payment may arise under this Contract beyond the current fiscal year until funds are made available for performance of this Contract. PGCSC shall make reasonable efforts to secure such funds. PGCSC may reduce or terminate this contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated. The PGCSC President/CEO shall have the sole and unfettered discretion in determining the availability of funds.
- 4.6 **Availability of Funds for the Current Fiscal Year.** Should the Legislature (State and/or Federal) or any funding source take action and reduce the appropriations or for any reason and these goods or services are not funded, PGCSC may take any of the following actions:
 - 4.6.1 Accept a decrease in price offered by the contractor;

4.6.2 Cancel the contract;

4.6.3 Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1 **Amendments.** This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.1.1 Change in the reimbursement ceiling;

5.1.2 Contract term, if extended and/or reduced without terminating the contract;

5.1.3 Service delivery methodology, the scope of work (change in the location of the delivery of service), or the level of service to be provided;

5.1.4 Ownership or legal entity responsible for the contract;

5.1.5 Personnel of the contractor, when the individual is indicated by name or qualification, in the contract;

5.1.6 Any other changes in the terms and conditions of the contract which Pinal-Gila Council for Senior Citizens deems substantial; or,

5.1.7 Except where contract special terms and conditions provide otherwise.

5.2 **Subcontracts.** The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.2.1 The Contractor shall provide copies of subcontracts relating to the provision of contract services to PGCSC, upon request.

5.3 **Assignment and Delegation.** The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. PGCSC shall not unreasonably withhold approval.

6. Risk and Liability

6.1 **Risk of Loss.** The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel 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.

6.2 **Indemnification.**

6.2.1 **Contractor/Vendor Indemnification (Not Public Agency).** The parties to this contract agree that PGCSC shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that PGCSC shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 **Public Agency Language Only.** Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs or expenses

(including reasonable attorney's fees) hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.

6.3 Indemnification – Patent and Copyright. The Contractor shall indemnify and hold harmless PGCSC against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by PGCSC of materials furnished or work performed under this Contract. PGCSC shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.P. § 41-621 and § 35-154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunction-intervention-acts; or failure or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effect of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits, if and to the extent that such delay or failure is caused by force majeure.

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

7. Warranties

7.1 Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality. Unless otherwise modified elsewhere in the terms and conditions, the Contractor warrants that, for one year after acceptance by PGCSC of the materials, they shall be;

- 7.2.1 Of a quality to pass without objection in the trade under the Contract description;
- 7.2.2 Fit for the intended purposes for which the materials are used;
- 7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4 Adequately contained, packaged and marked as the Contract may require; and
- 7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3 **Fitness.** The Contractor warrants that any material supplied to PGCSC shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 **Inspection/Testing.** The warranties set forth in subparagraphs 7.1 and 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by PGCSC.
- 7.5 **Year 2000**
- 7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.
- 7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.
- 7.6 **Compliance With Applicable Laws.** The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6.1 In accordance with A.R.S. § 36-557 (Purchase of community developmental disabilities services; application; contracts; limitation), as applicable, all recipients of contract services shall have all of the same specified rights as they would have if enrolled in a service program operated directly by PGCSC.
- 7.6.2 Nothing in this contract shall be construed as a waiver of an Indian Tribe's sovereign immunity; nothing shall be construed as an Indian Tribe's consent to be sued, or as consent by an Indian Tribe to jurisdiction of any State Court.
- 7.6.3 The Contractor shall comply with the requirements related to reporting to a peace officer or child protective services incidents of crimes against children as specified in A.R.S. § 13-3620.
- 7.6.4 The Contractor shall comply with P.L. 101-121, Section 319 (21 U.S.C. section 1352) and 29 C.F.R. Part 93 which prohibit the use of Federal funds for lobbying at which state, in part: Except with the express authorization of

Congress, the Contractor, its employees or agents, shall not utilize any Federal funds under the terms of this contract to solicit or influence, or to attempt to solicit or influence, directly or indirectly, any member of Congress regarding pending or prospective legislation. Indian tribes, tribal organizations and any other Indian organizations are exempt from these lobbying restrictions with respect to expenditures that are specifically permitted by other Federal law.

7.6.5 The Contractor shall comply with all applicable state and federal statutes and regulations. This shall include A.R.S. §23-722.01 relating to new hire reporting, A.R.S. §23-722.02 relating to wage assignment orders to provide child support, and A.R.S. §25-535 relating to administrative or court-ordered health insurance coverage for children.

7.7 **Survival of Rights and Obligations after Contract Expiration or Termination.**

7.7.1 **Contractor's Representations and Warranties.** All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 **Purchase Orders.** 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.

8 **PGCSC's Contractual Remedies**

8.1 **Right to Assurance.** If PGCSC 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 PGCSC's options, be the basis for terminating the Contract under the Uniform Terms and Conditions, PGCSC Uniform General Conditions or other rights and remedies available by law or provided by the contract.

8.2 **Stop Work Order.**

8.2.1 PGCSC may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for a period(s) of days indicated by PGCSC after the order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 **Non-exclusive Remedies.** The rights and the remedies of PGCSC under this Contract are not exclusive.

8.4 **Nonconforming Tender.** Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, PGCSC may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5 **Right of Offset.** PGCSC shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by PGCSC, or damages assessed by PGCSC concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs or damages described in the Uniform Terms and Conditions and PGCSC Uniform General Conditions.

Contract Termination

- 9.1 **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, PGCSC may cancel this Contract within three (3) years after Contract execution without penalty or further obligation of any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of PGCSC is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2 **Gratuities.** PGCSC may, by written notice, terminate this Contract, in whole or in part, if PGCSC determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of PGCSC for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. PGCSC, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3 **Suspension or Debarment.** PGCSC may, by written notice to the Contractor, immediately terminate this Contract if PGCSC determines that the 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. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify PGCSC. The Contractor shall submit the Certification Regarding Debarment, Suspension and Voluntary Exclusion Lower Tier Covered Transactions form.
- 9.4 **Termination for Convenience.** PGCSC reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of PGCSC without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to PGCSC. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to PGCSC. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A. C. R2-7-701 shall apply.
- 9.5 **Termination for Default.**
- 9.5.1 In addition to the rights reserved in the Uniform Terms and Conditions and PGCSC Uniform General Conditions, PGCSC reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to PGCSC on demand.
- 9.5.3 PGCSC may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.5.4 The contract may immediately be terminated if PGCSC determines that the health or welfare or safety of service recipients is endangered.

- 9.6 **Continuation of Performance Through Termination.** 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.
- 10 **Contract Claims.** All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.
- 11 **Arbitration.** The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A. R. S. §12-1518, except as may be required by other applicable statutes (Title 41).
- 12 **Certification of Cost or Pricing Data.** By signing the offer and contract award form, the contract, change order, contract amendment or other official form, the Contractor is certifying that, to the best of the Contractor's knowledge and belief, any cost or pricing data submitted is accurate, complete and current as of the date submitted or other mutually agreed upon date. Furthermore, the price to PGCSC shall be adjusted to exclude any significant amounts by which PGCSC finds the price was increased because the contractor furnished cost and pricing data was inaccurate, incomplete or not current as of the date of certification. Such adjustment by PGCSC may include overhead, profit or fees. The certifying of cost or pricing data does not apply when contract rates are set by law or regulation.
- 13 **Fees and Program Income.** The contractor shall impose no fees or charges of any kind upon recipients for specific services authorized under this contract.
- 13.1 The Contractor shall solicit voluntary donations from program participants for services received. The Contractor shall not deny service to any program participant solely because of a refusal to make a donation.
- 13.2 Any income received by the Contractor or PGCSC, from participants contributions for services received, shall be reported in accordance with controlling law and regulation.
- 13.3 Contract Nutrition Providers must utilize Senior Center Nutrition Site Councils to assist in developing a suggested donation amount(s). Suggested donation amount(s) must be posted in a visible location at the Nutrition Site.
- 13.4 Solicitation of membership fees/dues is not permitted for services funded under this contract.
- 14 **Competitive Bidding.** The Contractor is authorized to purchase the supplies and equipment itemized in the contract for utilization in the delivery of contract services. Contractor shall procure all such supplies and equipment at the lowest practicable cost and shall purchase all non-expendable items having a useful life of nor more than one year and a acquisition cost of \$1,000 or more, through generally accepted and reasonable competitive bidding processes. Any procurement in violation of this provision shall be considered a financial audit exception.
- 15 **Confidentiality.** The Contractor shall observe and abide by all applicable State and Federal statutes, rules and regulations regarding the use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the contractor shall release information to PGCSC as required by the terms of this contract, by law or upon their request.
- 16 **Contract Extension.** PGCSC has no obligation to extend or renew this contract. However, this contract may be extended or renewed for multiple periods, or may be established as a multi-year contract in its entirety or in part at the sole option of PGCSC. The Procurement Officer may provide written notice to the Contractor that the contract is being extended for the period specified and a written amendment to the contract signed by both parties shall not be necessary. Any extension must be made prior to the end of the contract period specified in this contract.
- 17 **Contract Term.** The term of the resultant contract shall commence upon award and shall remain in effect for one (1) year or otherwise specified date, unless terminated, cancelled, or extended as otherwise provided herein.
- 17.1 PGCSC has no obligation to extend or renew this contract. However, this contract may be extended or renewed for multiple periods, or may be established as a multi-year contract in its entirety or in part at the sole option of PGCSC.

- 17.2 PGCSC shall have the unilateral right to extend the contract period for 3 additional one-year periods or portions thereof for a total contract term not to exceed 4 years. The terms and conditions of any such contract extension shall remain the same as the original contract.
- 17.3 Any extension or renewal must be made prior to the end of the contract period specified in this contract.
- 17.4 The Contractor shall not provide services prior to contract term commencing or after the end date of the contract. (No billable activity outside the effective contract dates.)
- 18 **Cooperation.** PGCSC may undertake or award other contracts for additional work related to the work performed by the Contractor, and the Contractor shall fully cooperate with such other Contractors and PGCSC employees, and carefully fit its own work to such other Contractor's work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by PGCSC employees. The Contractor shall cooperate as PGCSC deems necessary, with the transfer of work, services, case records and files performed or prepared by the Contractor to other Contractor's.
- 19 **Equipment.**
- 19.1 If the Contractor is authorized to purchase equipment, it shall be itemized in the contract for utilization in the delivery of contract services. If equipment is purchased as authorized by this contract, the Contractor shall maintain complete and up-to-date inventory records for all equipment purchased hereunder. Equipment specifically designated within this contract, to be purchased in whole or part with PGCSC funds, shall be reported in accordance with PGCSC inventory policies and procedures. The contractor shall report equipment purchased with contract funds to PGCSC within thirty (30) days of purchase, perform an annual inventory of all equipment purchased with PGCSC funds and submit the equipment inventory form to PGCSC person designated to receive notices.
- 19.2 PGCSC shall retain an equitable interest equal to the purchase price paid, or a fair estimate or appraisal of current market value, whichever is greater, in all equipment purchased under this contract. PGCSC shall be included as a co-insured on any insurance policy which covers equipment purchased under this contract.
- 19.3 The Contractor shall not dispose of any equipment purchased under this contract without the prior written consent of PGCSC during and after the contract term. Such consent, if given, may include direction as to the means of disposition and the utilization of proceeds, including any necessary adjustment to the contract.
- 19.4 Upon termination of this contract, any equipment purchased under this contract shall be disposed of as directed by PGCSB and, if sold, PGCSC shall be compensated in the amount of its equitable interest.
- 20 **Evaluation.** PGCSC may evaluate, and the Contractor shall cooperate in the evaluation of, contract services. Evaluation may assess the quality and impact of contract services, either in isolation or in comparison with other similar services, and assess the contractor's progress and/or success in achieving the goals, objectives and deliverables set forth in this contract.
21. **Fair Hearings and Service Recipients' Grievances.**
- 21.1 The Contractor shall advise all applicants for and recipients of contract services of their right, at any time and for any reason, to present to the contractor and to PGCSC any grievances arising from the delivery of contract services, including, but not limited to, ineligibility determination, reduction of services, suspension or termination of services, or quality of services. PGCSC may assert its jurisdiction to hear the grievance or refer the matter to the appropriate authority.
- 21.2 The Contractor, whenever authorized by law, shall maintain a formal system acceptable to and approved by PGCSC for reviewing and adjudicating grievances by service recipients or subcontractors arising from the contract.
- 22 **Fingerprinting.** The provisions of A.R.S. § 46-141 (as may be amended) are hereby incorporated in their entirety as provisions of this contract. For reference, these provisions include, but are not limited to the following:
- 22.1 Personnel who are employed by the Contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles or vulnerable adults shall submit a full set of fingerprints for the purpose of

- obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544 or shall apply for fingerprint clearance card within seven working days of employment.
- 22.2 The provider shall assume the costs of fingerprint check and may charge these costs to it fingerprinted personnel. PGCSC may allow all or part of the cost of fingerprint checks to be included as an allowable cost in a contract.
- 22.3 Except as provided in A.R.S. §46-141, this contract may be cancelled or terminated immediately if a person employed by the Contractor and who has contact with juveniles certifies pursuant to the provisions of A.R.S. § 46-141 (as may be amended) that the person is awaiting trial or has been convicted of any of the offenses listed therein in this state, or of acts committed in another state that would be offenses in this state, or if the person does not possess or is denied issuance of a valid fingerprint clearance card.
- 22.4 Personnel who are employed by any provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the Department of Economic Security and notarized whether they are awaiting trial on or have ever been convicted of any of the offenses described in A.R.S. § 46-141 (F) (as may be amended).
- 22.5 Personnel who are employed by any provider, whether paid or not, and who are required or allowed to provide services directly to juveniles shall certify on forms provided by the Department of Economic Security and notarized whether they have ever committed any act of sexual abuse of a child, including sexual exploitation and commercial sexual exploitation, or any act of child abuse.
- 22.6 Federally recognized Indian Tribes or military bases may submit and the Department of Economic Security shall accept certifications that state that no personnel who are employed or who will be employed during the contract term have been convicted of, have admitted committing or are awaiting trial on any offenses as described in A.R.S. § 46-141 (F) (as may be amended).

23 **Insurance.**

INDEMNIFICATION CLAUSE: The parties to this contract agree that Pinal-Gila Council for Senior Citizens, the State of Arizona and the Department of Economic Security (DES) shall be indemnified and held harmless by Contractor for the vicarious liability of PGCSC, the State and/or DES as a result of entering into this contract. However, the parties further agree that PGCSC, the State of Arizona and DES shall each be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

INSURANCE REQUIREMENTS:

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

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

23.1 **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

23.1.1 **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000

- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to **include coverage for sexual abuse and molestation.**
- b. The policy shall be endorsed to include the following additional insured language: ***"Pinal-Gila Council for Senior Citizens, The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor". In addition, providers of Home Delivered Meals must also name (the current ALTCS provider agency) as additional insured. Providers in Gila County of Congregate Meals must name Gila County Government as an additional insured. All Providers utilizing the 5310 transportation vehicles leased by Pinal-Gila Council for Senior Citizens must also name the Arizona Department of Transportation as additional insured.***
- c. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

This requirement may be satisfied with a policy combining General and Professional Liability, provided that the General Liability section of the policy is written on an occurrence basis, and includes coverage for contractual liability.

23.1.2 Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: ***"Pinal-Gila Council for Senior Citizens, The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insured's with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor". In addition, providers of Home Delivered Meals must also name (the current ALTCS provider agency) as additional insured. Providers in Gila County of Congregate Meals must name Gila County Government as an additional insured. All Providers utilizing the 5310 transportation vehicles leased by Pinal-Gila Council for Senior Citizens must also name the Arizona Department of Transportation as additional insured.***

23.1.3 Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

23.1.4 Professional Liability (Errors and Omissions Liability)

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective

date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

- b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

23.2 **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions: State of Arizona Department of Economic Security wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

- a. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
- b. Coverage provided by the Contractor shall not be limited to the liability assumed un the indemnification provisions of this contract.

23.3 **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to **(Pinal-Gila Council for Senior Citizens, 8969 W. McCartney Rd., Casa Grande, AZ 85294-7432 and to State of Arizona Department Representative's Name & Address** and shall be sent by certified mail, return receipt requested.

23.4 **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

If the social services program utilizes the Social Service Contractors Indemnity Pool (SSCIP) or other approved insurance pool for insurance coverage, SSCIP or the other approved insurance pool is exempt from the A.M. Best's rating requirements listed in this contract. If the contractor or subcontractor chooses to use SSCIP or another approved insurance pool as its insurance provider, the contract/subcontract would be considered in full compliance with insurance requirements relating to the A.M. Best rating requirements.

23.5 **VERIFICATION OF COVERAGE:** Contractor shall furnish PGCSC and the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by PGCSC and the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to **(Pinal-Gila Council for Senior Citizens,, 8969 W. McCartney Rd., Casa Grande, AZ 85222-7432, and AZ DES –Department of Aging & Community Services, Contracts Management Unit, 1789 West Jefferson 2N/W (086Z) Phoenix, AZ 85007.** The project/contract number and project description shall be noted on the certificate of insurance. PGCSC and the State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

23.5 **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insured's under its policies or Contractor shall furnish to PGCSC and the State of Arizona separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.

23.6 **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

23.7 **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

In the event that Contractor determines that it may not be able to comply fully with the insurance requirements set forth in paragraph 18 of the DES Special Terms and Conditions, the Contractor may request that the insurance requirements be modified pursuant to paragraph 18.2.2(G), provided that such request be delivered in writing to PGCSC at least 10 days prior to the solicitation due date or, if not a solicitation, prior to contract execution. Contractor shall include with such request Contractor's justification for the modification with supporting documentation.

Modifications that are approved will be done so on a case-by-case basis and shall not affect the insurance requirements of other Contractors for whom modifications have not been approved. If a Contractor's request has not been approved or a Contractor fails to deliver its request prior to the applicable deadline, then the Contractor shall be required to comply fully with the insurance requirements set forth in DES ST&C paragraph 18.

24. **Levels of Service.**

24.1 If the Contractor determines service recipient eligibility, the Contractor shall maintain and regulate the units or services set forth in this contract to ensure continuity and availability of services to eligible persons during the term of this contract during any transition to a subsequent contractor.

24.2 PGCSC makes no guarantee to purchase specific quantities of goods or services, or to refer eligible persons as may be identified or specified herein. Further, it is understood and agreed that this contract is for the sole convenience of PGCSC and that PGCSC reserves the right to obtain like goods or services from other sources when such need is determined necessary by Pinal-Gila Council for Senior Citizens.

24.3 PGCSC Administration may obtain services under this contract.

24.4 Contract services may be moved or expanded to other site locations within the geographic area awarded only by a written contract amendment.

24.5 PGCSC makes no guarantee to purchase all of the service units authorized or to provide any number of referrals. If quantities of units are specified, they are estimates only and PGCSC may decrease and/or increase them by providing written notice to the contractor.

24.6 When the method of compensation for the service is Fixed Price with Price Adjustment, the contract may be amended, by mutual agreement, to purchase additional services by increasing the contract service budget and/or budget summary.

25 **Monitoring.** Pinal-Gila Council for Senior Citizens may monitor the Contractor or subcontractor and they shall cooperate in the monitoring of services delivered, facilities maintained and fiscal practices.

26 **Payment Recoupment.** The Contractor must reimburse Pinal-Gila Council for Senior Citizens upon demand or PGCSC may deduct from future payments the following:

26.1 Any amounts received by the Contractor from PGCSC for contract services which have been inaccurately reported or are found to be unsubstantiated;

26.2 Any amounts paid by the Contractor to a subcontractor not authorized in writing by PGCSC.

- 26.3 Any amount or benefit paid directly or indirectly to an individual or organization not in accordance with the "Substantial Interest" section of these terms and conditions.
- 26.4 Any amounts paid by PGCSC for services which duplicate services covered or reimbursed by other specific grants, contracts, or payments.
- 26.5 Any amounts expended for items or purposes determined unallowable by PGCSC when this contract provides for the reimbursement of costs, see the "Unallowable Costs" section of these terms and conditions;
- 26.6 Any amounts paid by PGCSC for which the contractor's books, record, and other documents are not sufficient to clearly substantiate that those amounts were used by the contractor to perform contract services;
- 26.7 Any amounts received by the Contractor from PGCSC which are identified as a financial audit exception;
- 26.8 Any amounts paid or reimbursed in excess of the contract or service reimbursement ceiling;
- 26.9 Any amounts paid to the contractor which is subsequently determined to be defective pursuant to the "Certification of Cost or Pricing Data" section of these terms and conditions.
- 26.10 Any payments made for services rendered before the contract begin date or after the contract termination date.
- 27 **Personnel.** The Contractor's personnel shall satisfy all qualifications, carry out all duties, work the hours and receive the compensation set forth in this contract.
- 28 **Predecessor and Successor Contracts.** The execution or termination of this contract shall not be considered a waiver by PGCSC of any rights it may have for damages suffered through a breach of this or a prior contract with the Contractor.
- 29 **Professional Standards.** The Contractor shall deliver contract services in a humane and respectful manner and in accordance with any and all applicable professional accreditation standards. Levels of staff qualifications, professionalism, numbers of staff and individuals identified by name must be maintained as presented in the contract.
- 30 **Reporting and Client Referral Requirements.**
- 30.1 Unless otherwise provided in this contract, reporting shall adhere to the following schedule: no later than the 10th day following each month during the contract term the Contractor shall submit programmatic and financial reports to PGCSC in the form set forth in the contract. Failure to submit accurate and complete reports by the 10th day following the end of a month may result, at the option of PGCSC, in retention of Payment. Failure to provide such report within 30 days following the end of a month may result, at the option of PGCSC, in a forfeiture of such payment.
- 30.2 The Contractor shall utilize a standardized assessment process for eligible persons including an instrument that meets at a minimum certain functional status requirements established by PGCSC and DES A&AA. PGCSC and DES A&AA must review and approve the instrument to be employed prior to implementation or usage of an assessment instrument.
- 30.3 The Contractor shall support the goals of PGCSC and DES A&AA of comprehensive client tracking by utilizing the Aging Information Management System (AIMS for both the input client assessment and service authorization data) said data being extracted from the Arizona Standardized Client Assessment Plan. In addition, all client supporting data for case managed service unit delivered (including case management) and expenditure billed shall also be imputed into AIMS.
- 30.4 All potential clients for senior services will be directed to PGCSC's Central Intake Department for initial screening and appropriate referral. Senior Services include, but are limited to: Legal, Home Delivered Meals, Respite, Home Care, Family Caregiver Program, and Case Management.
- 30.5 Contractors of Congregate Meals shall support the goal of PGCSC and DES A&AA of comprehensive client tracking by utilizing the Participant Registration Form and the Nutritional Screening Tool for input into the AIMS system.

- 30.6 No later than the 30th day following the termination of this contract, Contractor shall submit to PGCSC a final program and fiscal report. Failure to submit the final program and fiscal report within the above time period may result, at the option of PGCSC, in forfeiture of final payment.
- 30.7 All reports shall reference the contract number, Contractor name and contact person, and be submitted to the person designated by PGCSC.
- 31 **Substantial Interest Disclosure.**
- 31.1 Contractor shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or any other organization which has a substantial interest in contractor's organization or with which contractor (or one of its directors, officers, owners, trust certificate holders or a relative thereof) has a substantial interest, unless contractor has made a full written disclosure of the proposed payments, including amounts, to PGCSC.
- 31.2 Leases or rental agreements or purchase of real property which would be covered by Paragraph 29.1 of this section shall be in writing and accompanied by an independent commercial appraisal of fair market rental, lease, or purchase value, as appropriate.
- 31.3 For the purpose of this Section, "relative" shall have the same meaning as in A.R.S. §38-502.
- 32 **Supporting Documents and Information.** In addition to any documents, reports or information required by any other section of this contract, Contractor shall furnish PGCSC with any further documents and information deemed necessary by PGCSC. Upon receipt of a request for information from PGCSC, the Contractor shall provide complete and accurate information no later than fifteen (15) days after the receipt of the request.
- 33 **Technical Assistance.** PGCSC may, but shall not be obligated to, provide technical assistance to the Contractor in the administration of contract services, or relating to the terms and conditions, policies and procedures governing this contract. Notwithstanding the foregoing, the Contractor shall not be relieved of full responsibility and accountability for the provision of contract services in accordance with the terms and conditions set forth herein.
- 34 **Termination for Any Reason.**
- 34.1 In the event the contract is terminated, with or without cause, or expires, the Contractor, whenever determined appropriate by PGCSC, shall assist PGCSC in the transition of services or eligible persons to other contractors. Such assistance and coordination shall include, but not be limited to, the forwarding of program and other records as may be necessary to assure the smoothest possible transition and continuity of services. The cost of reproducing and forwarding such records and other materials shall be borne by the contractor. The contractor must make provisions for continuing all management/administrative services until the transition of service or eligible persons is complete and all other requirements of this contract are satisfied.
- 34.2 In the event of termination or suspension of the contract by PGCSC, such termination or suspension shall not affect the obligation of the Contractor to indemnify PGCSC for any claim by any other party against PGCSC arising from the Contractor's performance of this contract and for which the Contractor would otherwise be liable under this contract. To the extent such indemnification is excluded by A.R.S. §41-162 et seq. or an obligation is unauthorized under A.R.S. §35-154, the provisions of this paragraph shall not apply.
- 34.3 In the event of early termination, any funds advanced to the contractor shall be returned to the Department within ten (10) days after the date of termination or upon receipt of notice of termination of the contract, whichever is earlier.
- 35 **Unallowable Costs.** The cost principles set forth in the Code of Federal Regulations, 48 CFR, Chapter 1, Subchapter e, Part 31, (October 1, 1991), excluding later amendments and editions, on file with the Secretary of State and incorporated by this reference, shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs. Those costs

which are specifically defined as unallowable therein will not be submitted for reimbursement by the Contractor and may not be reimbursed with PGCSC funds.

In addition, the Contractor shall comply with the following publications, as applicable:

- 35.1 OMB Circular A-87 for State, local and Indian Tribal Governments.
- 35.2 OMB Circular A-122 for private nonprofit organizations other than institutions of higher education, hospitals or others specified in A-122.
- 35.3 OMB Circular A-21 for educational institutions.
- 35.6 OMB Circular A-133 for audits of institutions of higher education and other non-profit institutions.
- 36 **Visitation, Inspection and Copying.** Contractor's or subcontractor's facilities, services, books and records pertaining to the contract shall be available for visitation, inspection and copying by PGCSC and any other appropriate agent of the State or Federal Government. At the discretion of PGCSC, visitation, inspection and copying may be at any time during regular business hours, announced or unannounced. If PGCSC deems it to be an emergency situation, it may at any time visit and inspect the Contractor's or subcontractor's facilities and services, as well as inspect and copy their contract-related books and records.
- 37 **Offshore Performance of Work Prohibited.** Due to security and identity protection concerns, all services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.
- 38 **Certification Regarding Lobbying.** The Contractor agrees by submittal of the Certification Regarding Lobbying form, compliance with 49 CFR part 20.
- 39 **Federal Immigration and Nationality Act.**
 - 39.1 By entering into the Contract, the Contractor warrants compliance with the Federal Immigration and Nationality Act. (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the contract. I-9 forms are available for download at USCIS.GOV.
 - 39.2 The PGCSC may request verification of compliance for any Contractor or subcontractor performing work under the Contract. Should PGCSC suspect or find that the Contractor or any of its subcontractors are not in compliance, PGCSC may pursue any and all remedies allowed by law, including, but not limited to: Suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.
- 40. **Inclusive Contractor.** Contractor is encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontractors for a percentage of the administrative or direct service being proposed. Contractor who is committing a portion of its work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning the Contractor's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.
- 41. **Pandemic Contractual Performance.** PGCSC shall require a written plan that illustrates how the contractor shall perform up to contractual standards in the event of a pandemic. PGCSC may require a copy of the plan at anytime prior or post award of a contract. At a minimum, the pandemic performance plan shall include:
 - 1. Key succession and performance planning if there is a sudden significant decrease in contractor's workforce.
 - 2. Alternative methods to ensure there are services or products in the supply chain.
 - 3. An up to date list of company contacts and organizational chart.

- 41.1 In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, PGCSC shall have the following rights:
1. After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the contractor cannot perform to the standards agreed upon in the initial terms.
 2. PGCSC shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the Director of the Arizona Department of Administration per A.R.S. § 41-2537 of the AZ Procurement Code.
 3. Once the pandemic is officially declared over and/or the contractor can demonstrate the ability to perform, PGCSC, at its sole discretion may reinstate the temporarily voided contract(s).
42. **Rate Increase.** The Contractor may submit a request for a rate increase a minimum of 45 days prior to the contract extension date. The request shall be in writing and include supportive justification for the proposed increase. The rate increase shall only be considered at time of contract extension. PGCSC will review the request and shall determine if the increase shall be granted or if an alternative option is in the best interests of PGCSC. The rate increase adjustment, if approved, will be effective and executed via a contract amendment. Any approved rate increase shall be applied to the specific rate(s) in effect prior to the contract extension period.
43. **Responsibility for Payments Indemnification.** The Contractor shall be responsible for issuing payment for services performed by the Contractor's employees, subcontractors, suppliers, or any other third party incurred in the furtherance of the performance or the arising out of the contract and will indemnify and save PGCSC harmless for all claims whatsoever out of the lawful demands of such parties. The Contractor shall, at the Department's request, furnish satisfactory evidence that all obligations and the nature hereinabove designated have been paid, discharged or waived.
44. **Transfer of Knowledge.** The Contractor shall, whenever feasible, share strategies and techniques with PGCSC staff to transfer the skills and knowledge acquired in the delivery of the contracted service.
45. **Transition of Activities.** In the event that a contract is awarded to a new contractor for services similar to those being performed by Contractor under this contract, there shall be a transition of services period. During this period, the contractor under this contract, shall work closely with the new contractor's personnel and/or PGCSC staff to ensure a smooth and complete transfer of duties and responsibilities. PGCSC's authorized representative will coordinate all transition activities. A transition plan will be developed in conjunction with the existing contractor to assist the new contractor and/or PGCSC staff to implement the transfer of duties. PGCSC reserves the right to determine which projects/service delivery nearing completion will remain with the current Contractor of record.
46. **Warranty of Service.** The Contractor warrants that all services provided under this contract shall conform to the requirements stated herein and any amendments hereto. PGCSC's acceptance of services provided by the Contractor shall not relieve the Contractor from its obligations under this warranty. In addition to its other remedies, the PGCSC Procurement Officer may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all of the provisions of this contract in the manner and to the same extent as the services originally furnished.

	Uniform Terms and Conditions		STATE OF ARIZONA

1 Definition of Terms. As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1 *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2 *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3 *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4 *"Contractor"* means any person who has a Contract with the State.
- 1.5 *"Days"* means calendar days unless otherwise specified.
- 1.6 *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7 *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8 *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9 *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10 *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11 *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12 *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13 *"State Fiscal Year"* means the period beginning with July 1 and ending June 30,

Contract Interpretation

- 2.1 Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative



Uniform Terms and Conditions

STATE
OF
ARIZONA

Code (A.A.C.) Title 2, Chapter 7.

- 2.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
- 2.3.1 Special Terms and Conditions;
 - 2.3.2 Uniform Terms and Conditions;
 - 2.3.3 Statement or Scope of Work;
 - 2.3.4 Specifications;
 - 2.3.5 Attachments;
 - 2.3.6 Exhibits;
 - 2.3.7 Documents referenced or included in the Solicitation.
- 2.4 **Relationship of Parties.** The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5 **Severability.** The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6 **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7 **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 3 Contract administration and operation.**
- 3.1 **Records.** Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 **Non-Discrimination.** The Contractor shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3 **Audit.** Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

	Uniform Terms and Conditions		STATE OF ARIZONA

3.4 **Facilities Inspection and Materials Testing.** The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 **Notices.** Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer 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.

3.6 **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.

3.7 **Property of the State.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 **Ownership of Intellectual Property.** Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 **Costs and Payments**

1 **Payments.** Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 **Delivery.** Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall

	Uniform Terms and Conditions		STATE OF ARIZONA

include all freight delivery and unloading at the destination.

4.3 Applicable Taxes.

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. 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.

4.3.3 Tax Indemnification. 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 State 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.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract changes

5.1 Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed



Uniform Terms and Conditions

STATE
OF
ARIZONA

responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

- 5.3 Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel 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.

6.2 Indemnification

- 6.2.1 Contractor/Vendor Indemnification (Not Public Agency). The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.
- 6.2.2 Public Agency Language Only. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers."
- 6.3 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.
- 6.4 Force Majeure.
- 6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

	Uniform Terms and Conditions		STATE OF ARIZONA

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations. The Contractor assigns to the State 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.

7 Warranties

7.1 Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

	Uniform Terms and Conditions		STATE OF ARIZONA

- 7.3 **Fitness.** The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 **Inspection/Testing.** The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5 **Year 2000.**
- 7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of *force majeure* shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.
- 7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of *force majeure* shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.
- 7.6 **Compliance With Applicable Laws.** The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.7 **Survival of Rights and Obligations after Contract Expiration or Termination.**
- 7.7.1 **Contractor's Representations and Warranties.** All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.7.2 **Purchase Orders.** 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

	Uniform Terms and Conditions		STATE OF ARIZONA

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.

8 State's Contractual Remedies

8.1 Right to Assurance. If the State 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 State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order.

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5 Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an



Uniform Terms and Conditions

STATE
OF
ARIZONA

employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

- 9.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the 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. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4 Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5 Termination for Default.
- 9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

	Uniform Terms and Conditions		STATE OF ARIZONA

9.6 Continuation of Performance Through Termination. 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.

10 **Contract Claims.** All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 **Arbitration**

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
SPECIAL TERMS AND CONDITIONS
Standard with Auto**

- 1.0 **Definition of Terms.** In addition to the terms and conditions defined in section 1 of the Uniform Terms and Conditions, the following shall apply:
- 1.1 **"Department"** means the Arizona Department of Economic Security (ADES), unless otherwise indicated.
- 1.2 **"Equipment"** means all vehicles, furniture, machinery, electronic data processing (EDP) equipment, software and all other equipment costing \$1,000.00 or more, including all normal and necessary expenses incurred to make the equipment ready for its intended use (e.g., taxes, freight, installation, assembly and testing charges, etc.), and with a useful life of greater than one year. Equipment as used herein does not include real property (e.g., land, buildings, structures, or facilities' improvements).
- 1.3 **"Vulnerable adult"** means an individual who is eighteen years of age or older who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment
- 2.0 **Audit.** In addition to the terms and conditions in section 3.3 of the Uniform Terms and Conditions, the following shall apply:
- 2.1 In compliance with the Federal Single Audit Act (31 U.S.C. Sections 7501-7507), Contractors designated as subrecipients, as described in the Office of Management and Budget (OMB) Circular A-133, expending Federal funds from all sources totaling \$500,000 or more, must have a yearly audit conducted in accordance with the audit and reporting standards as prescribed in OMB Circular A-133 (A-133). As outlined in A-133 the audit Reporting Package should include :
1. Financial statements and a Schedule of Expenditures of Federal Awards (SEFA)
 2. Summary schedule of prior audit findings
 3. Auditor's Reports (detailed in the A-133)
 4. Corrective Action Plan.
- 2.2 The Department's contract numbers and award amounts shall be included on the SEFA. A copy of the Single Audit Reporting Package and Management Letter, if issued, shall be submitted to the Department's Office of Audit and Management Services within thirty (30) days after completion of the audit or nine (9) months after the audited period and to the Department's person designated to receive notices as specified in the Reports Section in the Scope of Work.
- 2.3 All Contractors are subject to the programmatic and fiscal monitoring requirements of each Department program to ensure accountability of the delivery of all goods and services, as required under the Federal Single Audit Act. A minimum fiscal requirement for all Contractors designated as vendors is an annual financial audit which includes Department contract numbers and award amounts. The Audit Report, Management Letter, if issued, and Auditor's Opinion shall be submitted within thirty (30) days after completion of the audit to the Department's person designated to receive notices as specified in the Reports Section in the Scope of Work.
- 2.4 As prescribed in OMB Circular A-133, for-profit subrecipients are subject to compliance requirements established by the Department. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, Department monitoring during the contract, and post-award audits.
- 2.5 Audits of non-profit corporations receiving Federal or State monies required pursuant to Federal or State law must be conducted as provided in 31 U.S.C. Section 7501 et seq. and A.R.S. Section 35-181.03 and any other applicable statutes, rules, regulations and standards.
- 3.0 **Availability of Funds.**
- 3.1 The Department may reduce payments or terminate this contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated or allocated. The Director of the Department shall have the sole and unfettered discretion in determining the availability of funds. The Department and the Contractor may mutually agree to reduce reimbursement to the Contractor when the payment type is Fixed Price with Price Adjustment by executing a contract amendment.

- 4.0 **Background Checks for Employment through the Central Registry:** If providing direct services to children or vulnerable adults, the following shall apply:
- 4.1 The provisions of A.R.S. § 8-804 (as may be amended) are hereby incorporated in its entirety as provisions of this Contract.
- 4.2 Background checks through the Central Registry shall be conducted for each Contract employee including subcontractors that provide direct services to children or vulnerable adults. Individuals shall not provide direct services to ADES clients until the results of the Central Registry background check are complete and the results indicate the individual has no disqualifying acts that would prohibit him/her from providing services to ADES clients. If the Central Registry background check specifies any disqualifying act, the individual shall be prohibited from providing direct services to ADES clients.
- 4.3 Within thirty (30) days of contract award, the Contractor shall submit the "Request for Search of Central Registry for Employment" for each employee and subcontract employee providing direct services to children or vulnerable adults.
- 4.4 At least sixty (60) days prior to the Contract End Date, the Contractor shall submit the "Request for Search of Central Registry for Employment" for each employee and subcontract employee providing direct services to children or vulnerable adults.
- 4.5 The Contractor shall maintain the Central Registry Background Check results in a confidential file for five (5) years after termination of the Contract.
- 5.0 Certification of Cost or Pricing Data.**
- 5.1 By submittal of the offer, the Contractor is certifying that, to the best of the Contractor's knowledge and belief, any cost or pricing data submitted is accurate, complete and current as of the date submitted or other mutually agreed upon date. Furthermore, the price to the State shall be adjusted to exclude any significant amounts by which the State finds the price was increased because the Contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date of certification. Such adjustment by the State may include overhead, profit or fees. The certifying of cost or pricing data does not apply when contract rates are set by law or regulation.
- 6.0 Certification Regarding Lobbying.**
- 6.1 The Contractor agrees by submittal of the Certification Regarding Lobbying form, compliance with 49 CFR part 20. (See Attachments)
- 7.0 Competitive Bidding.**
- 7.1 The Contractor is authorized to purchase the supplies and equipment itemized in the contract for utilization in the delivery of contract services. Contractor shall procure all such supplies and equipment at the lowest practicable cost and shall purchase all non-expendable items having a useful life of more than one year and an acquisition cost of \$1,000 or more, through generally accepted and reasonable competitive bidding processes. Any procurement in violation of this provision shall be considered a financial audit exception.
- 8.0 Compliance with Applicable Laws.** In addition to the terms and conditions in section 7.6 of the Uniform Terms and Conditions, the following shall apply:
- 8.1 In accordance with A.R.S. §36-557 (Purchase of community developmental disabilities services; application; contracts; limitation), as applicable, all recipients of contract services shall have all of the same specified rights as they would have if enrolled in a service program operated directly by the State.
- 8.2 Nothing in this contract shall be construed as a waiver of an Indian tribe's sovereign immunity; nothing shall be construed as an Indian tribe's consent to be sued or as consent by an Indian tribe to the jurisdiction of any State Court.
- 8.3 The Contractor shall comply with the requirements related to reporting to a peace officer or child protective services incidents of crimes against children as specified in A.R.S. §13-3620.
- 8.4 The Contractor shall comply with P.L. 101-121, Section 319 (31 U.S.C. section 1352) and 29 C.F.R. Part 93 which prohibit the use of federal funds for lobbying and which state, in part: Except with the express authorization of Congress, the Contractor, its employees or agents, shall not utilize any federal funds under the terms of this contract to solicit or influence, or to attempt to solicit or influence, directly or indirectly, any member of Congress

regarding pending or prospective legislation. Indian tribes, tribal organizations and any other Indian organizations are exempt from these lobbying restrictions with respect to expenditures that are specifically permitted by other federal law.

8.5 The Contractor shall comply with all applicable state and federal statutes and regulations. This shall include A.R.S. § 23-722.01 relating to new hire reporting, A.R.S. § 23-722.02 relating to wage assignment orders to provide child support, and A.R.S. § 25-535 relating to administrative or court-ordered health insurance coverage for children.

9.0 Confidentiality.

9.1 The Contractor shall observe and abide by all applicable State and federal statutes, rules and regulations regarding the use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the Contractor shall release information to the Department and to the Attorney General's Office as required by the terms of this contract, by law or upon their request.

10.0 Contract Term and Option to Extend.

10.1 The term of the resultant contract shall commence upon award and shall remain in effect for one (1) year or otherwise specified date, unless terminated, cancelled, or extended as otherwise provided herein.

10.2 The State has no obligation to extend or renew this contract. However, this contract may be extended or renewed for multiple periods, or may be established as a multi-year contract in its entirety or in part at the sole option of the State.

10.3 The State shall have the unilateral right to extend the contract period for two (2) additional one-year periods or portions thereof for a total contract term not to exceed three (3) years. The terms and conditions of any such contract extension shall remain the same as the original contract.

10.4 Any extension or renewal must be made prior to the end of the contract period specified in this contract.

10.5 The Contractor shall not provide services prior to contract term commencing or after the end date of the contract. (No billable activity outside of the effective dates).

11.0 Cooperation.

11.1 The Department may undertake or award other contracts for additional work related to the work performed by the Contractor, and the Contractor shall fully cooperate with such other Contractors and State employees, and carefully fit its own work to such other Contractors' work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by State employees. The Contractor shall cooperate as the State deems necessary, with the transfer of work, services, case records and files performed or prepared by the Contractor to other Contractor(s).

12.0 Equipment.

12.1 If the Contractor is authorized to purchase Equipment, it shall be itemized in the contract for utilization in the delivery of contract services. If Equipment is purchased as authorized by this contract, the Contractor shall maintain complete and up-to-date inventory records for all Equipment purchased hereunder. Equipment specifically designated within this contract, to be purchased in whole or part with the Department funds, shall be reported in accordance with Department inventory policies and procedures. The Contractor shall report Equipment purchased with contract funds to the Department within thirty (30) days of purchase, perform an annual inventory of all Equipment purchased with Department funds and submit the Equipment inventory form to the Department person designated to receive notices.

12.2 The Department shall retain an equitable interest equal to the purchase price paid, or a fair estimate or appraisal of current market value, whichever is greater, in all Equipment purchased under this contract. The Department shall be included as a co-insured on any insurance policy which covers Equipment purchased under this contract.

12.3 The Contractor shall not dispose of any Equipment purchased under this contract without the prior written consent of the Department during and after the contract term. Such consent, if given, may include direction as to the means of disposition and the utilization of proceeds, including any necessary adjustments to the contract.

- 12.4 Upon termination of this contract, any Equipment purchased under this contract shall be disposed of as directed by the Department and, if sold, the Department shall be compensated in the amount of its equitable interest.
- 12.5 Under a fixed price contract, Section 12.1 through 12.4 do not apply unless specifically required by federal or state law.
- 13.0 Evaluation.**
- 13.1 The Department may evaluate, and the Contractor shall cooperate in the evaluation of, contract services. Evaluation may assess the quality and impact of contract services, either in isolation or in comparison with other similar services, and assess the Contractor's progress and/or success in achieving the goals, objectives and deliverables set forth in this contract.
- 14.0 E-Verify.**
- 14.1 The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.")
- 14.2 A breach of a warrant regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract.
- 14.3 Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract.
- 14.4 The Department retains the legal right to inspect the papers of any employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 14.1.
- 15.0 Fair Hearings and Service Recipients' Grievances.**
- 15.1 The Contractor shall advise all applicants for and recipients of contract services of their right, at any time and for any reason, to present to the Contractor and to the Department any grievances arising from the delivery of contract services, including, but not limited to, ineligibility determination, reduction of services, suspension or termination of services, or quality of services. The Department may assert its jurisdiction to hear the grievance or refer the matter to the appropriate authority.
- 15.2 The Contractor, whenever authorized by law, shall maintain a formal system acceptable to and approved by the Department for reviewing and adjudicating grievances by service recipients or subcontractors arising from this contract.
- 16.0 Federal Immigration and Nationality Act.**
- 16.1 By entering into the Contract, the Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract. I-9 forms are available for download at USCIS.GOV.
- 16.2 The State may request verification of compliance for any Contractor or subcontractor performing work under the Contract. Should the State suspect or find that the Contractor or any of its subcontractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.
- 17.0 Fees and Program Income.**
- 17.1 Unless specifically authorized in the contract, the Contractor shall impose no fees or charges of any kind upon recipients for contract services.

**Pinal Gila Council for Senior Citizens
BUSINESS ASSOCIATE Agreement
Protected Health Information**

This **Agreement** is entered into on this 1st day of July, 2009, between Pinal Gila Council for Senior Citizens (COVERED ENTITY) and Gila County Division of Health and Community Services (BUSINESS ASSOCIATE).

WITNESSETH:

WHEREAS, COVERED ENTITY will make available and/or transfer to BUSINESS ASSOCIATE certain Information, in conjunction with goods or services that are being provided by BUSINESS ASSOCIATE to COVERED ENTITY, that is confidential and must be afforded special treatment and protection.

WHEREAS, BUSINESS ASSOCIATE will have access to and/or receive from COVERED ENTITY certain information that can be used or disclosed only in accordance with this Agreement and the Health and Human Services (HHS) Privacy Regulations.

NOW, THEREFORE, COVERED ENTITY and BUSINESS ASSOCIATE agree as follows:

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear.
 - a **Contract** shall refer to this document.
 - b **BUSINESS ASSOCIATE** shall mean Gila County Division of Health and Community Services.
 - c **COVERED ENTITY** shall mean Pinal Gila Council for Senior Citizens.
 - d **HHS Privacy Regulations** shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164.
 - e **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term "individual" as defined by 45 C.F.R. 164.501.
 - f **Information** shall mean any "health information" provided and/or made available by COVERED ENTITY to BUSINESS ASSOCIATE, and has the same meaning as the term "health information" as defined by 45 C.F.R. 160.102.
 - g **Parties** shall mean BUSINESS ASSOCIATE and COVERED ENTITY.
 - h **Secretary** shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom the authority involved has been assigned.

2. **Term.** The term of this Contract shall commence as of July 1, 2009, and shall expire when all of the Information by COVERED ENTITY to BUSINESS ASSOCIATE is destroyed or returned to COVERED ENTITY pursuant to clause 6.i.

3. **Limits On Use And Disclosure Established By Terms Of Contract.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by COVERED ENTITY for any purpose other than as expressly permitted or required by this Contract (ref 164.504(e)(2)(i)).
4. **Stated Purposes For Which BUSINESS ASSOCIATE May Use Or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from COVERED ENTITY for the following stated purposes:

For the provision of services as described under the Older Americans Act and Aging and Adult Administration.

5. **Additional Purposes For Which BUSINESS ASSOCIATE May Use Or Disclose Information.** In addition to the Stated Purposes for which BUSINESS ASSOCIATE may use or disclose Information described in clause 4, BUSINESS ASSOCIATE may use or disclose Information provided or made available from COVERED ENTITY for the following purpose(s):
 - a **Use of Information For Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE (ref. 164.504(e)(4)(i)(A-B)).
 - b **Disclosure of Information For Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from COVERED ENTITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
 - 1) The disclosure is required by law; or
 - 2) The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the Information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the Information has been breached (ref. 164.504(e)(4)(ii)).
 - c **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is

defined by 45 C.F.R. 164.501, relating to the health cared operations of COVERED ENTITY (ref. 164.504(e)(2)(i)(B)).

6. BUSINESS ASSOCIATE Obligations:

- a Limits On Use And Further Disclosure Established By Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by COVERED ENTITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by law (ref. 45 164.504(e)(2)(ii)(A)).
- b Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement (ref. 164.504(e)(2)(ii)(B)).
- c Reports of Improper Use Or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to COVERED ENTITY **within two (2) days of discovery** any use or disclosure of Information not provided for or allowed by this Agreement (ref. 164.504(e)(2)(ii)(C)).
- d Subcontractors And Agents.** BUSINESS ASSOCIATE hereby agrees that anytime Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in the Agreement (ref. 164.504(e)(2)(ii)(D)).
- e Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of 45 C.F.R. 164.524, including substitution of the words "Covered Entity" with BUSINESS ASSOCIATE where appropriate (ref. 164.504(e)(2)(ii)(E)).
- f Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.526, including substitution of the words "Covered Entity" with BUSINESS ASSOCIATE where appropriate (ref. 164.504(e)(2)(ii)(F)).
- g Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "Covered Entity" with BUSINESS ASSOCIATE where appropriate (ref. 164.504(e)(2)(ii)(G)).
- h Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE

on behalf of the COVERED ENTITY, available to the Secretary or the Secretary's designee for the purposes of determining compliance with the HHS Privacy Regulations (ref. 164.504(e)(2)(ii)(H)).

- i Return or Destruction of Information.** At termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to return or destroy all Information received from, or created or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY. BUSINESS ASSOCIATE agrees not to retain any copies of the Information after termination of this Agreement. If return or destruction of the Information is not feasible, BUSINESS ASSOCIATE agrees to extend the protections of the Agreement for as long as necessary to protect the Information and to limit any further use or disclosure. If BUSINESS ASSOCIATE elects to destroy the Information, it shall certify to COVERED ENTITY that the Information has been destroyed (ref. 164.504(e)(2)(ii)(I)).
 - j Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use of disclosure of Information in a manner contrary to the Agreement or the HHS Privacy Regulations (ref. 164.530(f)).
 - k Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement or the HHS Privacy Regulations (ref. 164.530(e)(1)).
- 7. Property Rights.** The Information shall be and remain the property of the COVERED ENTITY, BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified information, as a result of Agreement.
 - 8. Termination of Agreement.** BUSINESS ASSOCIATE agrees that COVERED ENTITY has the right to immediately terminate this Agreement and seek relief under the Disputes Article if COVERED ENTITY determines that BUSINESS ASSOCIATE has violated a material term of this Agreement (ref. 164.506(e)(2)(iii)).
 - 9. Grounds For Breach.** Any non-compliance by BUSINESS ASSOCIATE with this Agreement or the HHS Privacy Regulations will automatically be considered to be a Grounds For Breach, if the BUSINESS ASSOCIATE knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-compliance.
 - 10. Choice of Law.** This Agreement shall be governed by the law of the State of Arizona. The Parties also agree that for purposes of privacy rights, the HHS Privacy Regulations shall supersede all applicable state laws.

11. **Binding Nature and Assignment.** This Agreement shall be binding on the Parties hereto and their successors and assigns, but neither Party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.
12. **Notices.** Whenever under this Agreement one Party is required to give notice to the other, such notice shall be deemed given if mailed by First Class United States mail, postage prepaid, and addressed as follows:

COVERED ENTITY:

Pinal-Gila Council for Senior Citizens
8969 W. McCartney Road
Casa Grande, AZ 85194-7432

BUSINESS ASSOCIATE:

Either Party may at any time change its address for notification purposes by mailing a notice stating the change and setting forth the new address.

13. **Good Faith.** The Parties agree to exercise good faith in the performance of the Agreement
14. **Attorney's Fees.** Except as otherwise specified in the Agreement, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each Party shall bear their own legal expenses and any other cost incurred in that action or proceeding.
15. **Entire Agreement.** This Agreement consists of this document, and constitutes the entire agreement between the Parties. There are no understandings or agreements relating to this Agreement which are not fully expressed in this Agreement and no change, waiver or discharge of obligations arising under this Agreement shall be valid unless in writing and executed by the Party against whom such change, waiver or discharge is sought to be enforced.

IN WITNESS WHEREOF, BUSINESS ASSOCIATE and COVERED ENTITY have caused this Contract to be signed and delivered by their duly authorized representatives, as of the date set forth above.

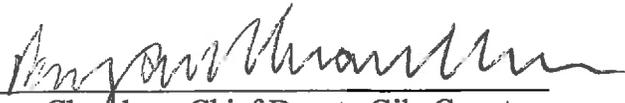
BUSINESS ASSOCIATE

By: Shirley L. Dawson
Print Name: Shirley L. Dawson
Title: Chairman, Gila County Board of Supervisors

COVERED ENTITY

By: Olivia B. Guerrero
Print Name: Olivia B. Guerrero, M.S.
Title: President/CEO

APPROVED AS TO FORM:



Bryan Chambers, Chief Deputy Gila County
Attorney

7 14 09

Date