EXECUTIVE SUMMARY FORM

Contract Name: Online Surplus Auction Services **Contract No.:** 10-P-01

Statement of Purpose and Need (3-5 Sentences)

The Public Group is an internet auction system with unique capabilities exclusively for Public Agencies. There is no cost associated with listing an item and a 7.5% auctioneer fee for items sold. The County has used the Public Group since 2005 with great success and would like to continue to do so with the approval of the County Manager.

Contract End Date: May 14, 2012 **Renewal Option:** ☒ Yes ☐ No

Maximum Dollar Limit: 7.5% Commission Fee

Contract Information

Firm Name: The Public Group d/b/a/ Public Surplus LLC **Contact Person:** Eric Heaps

Address: PO Box 50676 **Phone No:** 800-591-5546

City: Provo **State:** UT **Fax:** _____ **Email:** _____

Fund: Multiple **Type of Funds:** ☐ Restricted ☐ Grant ☐ General Fund ☐ Other

Fund Code: Multiple

Special Notes:

On September 13, 2005 the Board of Supervisors approved the use of the Mohave County Contract 05-P-05 with Public Surplus LLC, for online internet surplus auction services. The contract expired and Mohave went back out to bid and now has a new Contract 10-P-01 with The Public Group d/b/a/ Public Surplus LLC. Purchasing is seeking the approval the County Manager to continue using The Public Group for its online surplus auctions.

There are several advantages of Online Auctions: Through The Public Group there is no cost to Gila County to register, list or re-list items for sale. There is a discounted rate of 7.5% payable only when an item sells. No commitment is required and the County uses at their sole discretion. Gila County sets the terms and conditions of the surplus items offered. It is free for buyers (bidders) to use. The Public Group will assist the County to comply with state and local regulations and policies by maintaining audit-records (automated inventory control component) which details the disposition of every surplus item. The County will have the ability to easily provide a printed detailed record of any surplus item disposed of during the preceding 7 years.

Special Notes Continued...

By using the Mohave Contract it will save Gila County time and money in having to go out for bids to establish a contract for a service when Mohave already has the contract in place with the discounted rate.

The contract expires May 14, 2012 but has the option to be renewed for 3 more additional 1 year terms.

Authorization to use a Cooperative Purchasing Agreement with Mohave County Contract No. 10-P-01 for Online Surplus Auction Services with The Public Group approved this 5 day of OCTOBER, 2011.

GILA COUNTY MANAGER

Don E. McDaniel Jr.

County of Mohave
PROCUREMENT OFFICE

CONTRACT NO. 10-P-01

ONLINE SURPLUS AUCTION SERVICES

AMENDMENT NO. ONE (1)

DATE ISSUED: March 1, 2011

The referenced document has been modified as per the attached Amendment No. **ONE (1)**. This Amendment is hereby made part of the referenced Contract as though fully set forth therein.

Mohave County Procurement Office
P.O. Box 7000
Kingman, Arizona 86402-7000
(928) 753-0752 Fax: (928) 753-0787

MOHAVE COUNTY PROCUREMENT DEPARTMENT
700 W. BEALE STREET, FIRST FLOOR EAST
P.O. BOX 7000, KINGMAN, AZ 86402-7000
ISSUE DATE: March 1, 2011

THIS CONTRACT IS AMENDED AS FOLLOWS:

CONTRACT NO. 10-P-01

ONLINE SURPLUS AUCTION SERVICES

- In accordance with Special Terms and Conditions, Clause #5 – Contract Term and Renewal, the current Contract No. 10-P-01 is hereby extended for an additional one-year period from May 15, 2011 through May 14, 2012. All Terms & Conditions of the existing Contract shall remain the same.

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

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.

3-3-11
Signature of Person Authorized to Sign — Date

Eric Hass
Printed Name

Chief Operating Officer
Title

4-4-11
Buster D. Johnson, Chairman — Date
Mohave County Board of Supervisors

TABLE OF CONTENTS

SECTION

I. INTRODUCTION

II. TIME OF PERFORMANCE

III. FINANCIAL CONSIDERATIONS

IV. SPECIAL TERMS AND CONDITIONS

V. STANDARD TERMS AND CONDITIONS

VI. EXHIBITS

- Exhibit 'A' – Scope of Professional Services
- Exhibit 'B' – Fee Summary

I. INTRODUCTION

This contract is for services described in **EXHIBIT "A", SCOPE OF PROFESSIONAL SERVICES.**

II. TIME OF PERFORMANCE

Refer to ***Special Terms & Conditions, Item #6 – Contract Term and Renewal.***

III. FINANCIAL CONSIDERATIONS

- In consideration of the services performed under this contract, the County shall pay the Consultant in accordance with the fee schedule negotiated prior to contract execution, attached herein as **EXHIBIT "B".**

- The County will pay the Consultant following the submission of itemized invoice(s). Each itemized invoice must bear a written certification by an authorized County representative confirming the services for which payment is requested.

IV. SPECIAL TERMS AND CONDITIONS

1. **SOFTWARE COMPATABILITY:** For the purposes of aiding the Consultant in the performance of their obligation under this contract, the County shall furnish upon request all relevant data in the County's possession and shall direct County officers, agents and employees to render all reasonable assistance to Consultant in connection with Consultants performance under this contract. The provision of such aid, assistance, information or services as received from the County shall in no way relieve the Consultant from obligations under this contract. The County does not warrant the compatibility of County furnished data, either electronic or in any form, with the Consultant's software. All costs associated with data conversion or software upgrades and conversions shall be borne by the Consultant.

2. **OTHER CONTRACTS:** The County may, as its sole option, enter into contracts for additional work related to this project. The Consultant shall fully cooperate with other contractors and consultants and with County employees to accommodate such other work. The Consultant shall not commit or permit any act that interferes with the performance of such work by other contractors.

3. **COOPERATIVE LANGUAGE:** This contract is entered into for the use of Mohave County. In addition, eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any resultant contract, a political subdivision or nonprofit educational or public health institution must enter into a cooperative purchasing agreement with the County of Mohave Procurement Department.

Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The County shall not be responsible for any disputes arising out of transactions made by others.

4. KEY PERSONNEL: It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.

   A. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the County.

   B. If key personnel are not available for work under this contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the County, and shall, subject to the concurrence of the County, replace such personnel with personnel of substantially equal ability and qualifications.

5. CONTRACT TERM AND RENEWAL: The term of this contract shall commence on May 15, 2010 and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Offeror agrees that the County shall have the right, as its sole option, to renew the contract for four (4) additional one-year periods, or portions thereof. If the County chooses to exercise this option, all terms, conditions, and provisions of the original contract shall remain the same and apply during the renewal period with the possible exception of fee basis and minor scope additions and/or deletions.

6. PERFORMANCE RATING: At the completion of each annual term or termination of this contract, the County will evaluate the Offeror based upon their performance under this contract. This rating will be used in the overall evaluation of the Offeror when applying for future work with the County.

V. STANDARD TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THE CONTRACT

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of submittal as non-responsive.
Should: Indicates something that is recommended but not mandatory. If the offeror fails to provide recommended information, the County may, at its sole option, ask the offeror to provide the information or evaluate the submittal without the information.
May: Indicates something that is not mandatory but permissible.

For purposes of this solicitation, the following definitions shall apply:

a) **County** - The County of Mohave, P.O. Box 7000, Kingman, AZ 86402-7000.

b) **Agency or User Department** – Used interchangeably to mean the County department or division responsible for managing the professional services contract for the project.

c) **Consultant or Firm** – Used interchangeably in referring to the architect, engineer, landscape architect, or land surveyor organization offering professional services to the County of Mohave.

d) **Evaluation Committee** – The committee established to formally evaluate proposals according to the evaluation criteria listed herein.

e) **Joint Venture** – Two or more persons or entities combining their property, money, skills, and knowledge to form a distinct legal entity to carry out a single business enterprise for profit, pursuant to a written agreement.

f) **Contract** - The legal agreement executed between the County of Mohave, AZ and the Consultant/Firm.

g) **County Project Manager** - The County employee specifically designated as responsible for monitoring and overseeing the Consultant's performance under this contract. Also referred to as County Designated Contract Representative.

h) **Procurement Manager** - The contracting agent for the County of Mohave, AZ, on behalf of the Mohave County Board of Supervisors.

2. **NOTICE TO PROCEED:** The Consultant agrees to render professional services promptly and diligently upon receipt of written notice to proceed with any or all of the services set forth herein.

3. **RECORDS:** Internal control over all financial transactions related to this contract shall be in accordance with sound fiscal policies. The County may, at reasonable times and places, audit the books and records of Consultant or any and all of Consultant's sub-consultants. Said audit shall be limited to this contract and its scope of services.

4. **PRINCIPAL CONSULTANT'S RESPONSIBILITY:** The Consultant shall be responsible for the professional quality, technical accuracy and other services furnished by the Consultant under this contract. The Consultant shall without additional compensation, correct or revise any errors or deficiencies in its deliverables.

Neither the County's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Consultant shall be and remain liable to the County in accordance with applicable law for all damages to the County caused by the Consultant's negligent performance of any of the services furnished under this contract.

If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

The Consultant agrees that the work to be performed pursuant to this agreement shall be under the full authority and responsible charge of the undersigned principal of the firm or officer of the corporation.

5. **ADDITIONAL COMPENSATION:** The Consultant shall submit a written proposal and secure the County's written approval of same prior to the performance by the Consultant of any work for which additional compensation will be requested.

   Without the County's prior written approval of the proposed work and the fee therefore, the County will not consider payment of any sums other than those already set forth under this contract.

6. **ADVICE AND CONSULTATION:** The Consultant shall be available to the County for advice and consultation on the interpretation of the plans and specifications on questions, which may arise during the course of this contract.

7. **PUBLIC HEARINGS:** The Consultant shall upon request, attend any public hearing on matters related to the scope of services set forth in this contract.

8. **CERTIFICATION:** By signature in the offer section of the Offer page, Consultant certifies:
   a) The submission of the offer did not involve collusion or other anti-competitive practices.
   b) The Consultant shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.
   c) The Consultant has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
   d) The Consultant submitting the offer hereby certifies that the individual signing the offer is an authorized agent for the Consultant and has the authority to bind the Consultant to the Contract.

9. **TERMINATION OF CONTRACT:**
   a) The County may terminate this contract in whole or, from time to time, in part, for the County's convenience or because of the failure of the Consultant to fulfill the Contract obligations. Upon receipt of the notice of termination, the Consultant shall: 1) immediately discontinue all services affected (unless the notice directs otherwise), and 2) deliver to the using department all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.
   b) If the termination is for the convenience of the County, the County shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.
   c) If, after termination for failure to fulfill contract obligations, it is determined that the Consultant has not failed, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County.
   d) The rights and remedies of the County provided in this clause are in addition to any other rights or remedies provided by law or under this contract.

10. **SUSPENSION OF WORK:**
   a) The County may order the Consultant, in writing, to suspend, delay, or interrupt all or any part of the work under this contract for the period of time that the County determines appropriate for the convenience of the County.

   b) The Consultant agrees that no charges or claims for damages shall be made against the County for any delays or hindrances during the progress of this contract. Such delays

or hindrances, if any will be covered by an extension of time for such reasonable period as mutually agreed upon between the parties. It is agreed and understood, however, that permission to proceed with the contract after the established completion date shall not be construed as a waiver by the County of any of the rights herein.

11. **ARBITRATION:** It is understood and agreed that no provision of the contract relating to arbitration or requiring arbitration shall apply to or be binding upon the County except by the County's express written consent given subsequent to the execution of the contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. Sec. 12-1501, et seq. Consultant shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.

12. **INDEPENDENT CONSULTANT:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.

    Consultant shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the County, and that such days do not accumulate for the use of same at a later date.

    The County will not provide any insurance coverage to Consultant, including Worker's Compensation coverage. The Consultant is advised that taxes or social security payments shall not be withheld from a County payment issued hereunder and that Consultant should make arrangements to directly pay such expenses, if any.

13. **HUMAN RELATIONS:** Consultant agrees to abide by the provisions of Mohave County against discrimination required in all County contracts.

14. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the County. The County reserves the right to obtain like goods or services from another source when necessary.

15. **PATENT INFRINGEMENT:** The Consultant and the surety shall defend any suit or proceeding brought against the procuring agency, during the prosecution or after the completion of the work, based on a claim that manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark or copyright and the Consultant shall pay all damages and costs awarded therein, against the procuring agency and any affected third party or political subdivision. If manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Consultant shall, at its own expense, either procure for the procuring agency the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or replace same with non-infringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so it becomes non-infringing.

If appropriate, the Consultant shall furnish the County Contract Representative satisfactory evidence of patent licenses or patent releases covering County-specified proprietary materials, equipment, devices or processes, as the case may be.

16. **AMERICANS WITH DISABILITIES ACT:** The Consultant shall comply with all applicable provisions of the Americans with Disabilities Act, Public Law 101-336, 42 U.S.C. 12101-12213, and applicable federal regulations under the Act.

17. **CONFIDENTIALITY OF RECORDS:** The Consultant shall establish and maintain procedures and controls that are acceptable to the County for the purpose of assuring that no information contained in its records or obtained from the County or from others in carrying out its functions under the contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the contract. Persons requesting such information should be referred to the County. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the County.

18. **GRATUITIES:** The County may, by written notice to the Consultant, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant, to any officer or employee of the County amending. In the event this contract is canceled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant the amount of the gratuity.

19. **APPLICABLE LAW:** This Contract shall be governed by the law of the State of Arizona, and suits pertaining to this contract shall be brought only in Federal or State courts in the State of Arizona.

20. **CONTRACT:** The Final Contract document shall be written and shall be based upon the Request for Proposal issued by the County, the offer submitted by the Consultant in response to the Request for Proposals, and any negotiations entered into and changes agreed upon by both parties. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposals. The County reserves the right to clarify any contractual terms with the concurrence of the Consultant; however, any substantial non-conformity in the offer, as determined by the County's Procurement Manager, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the County and the Consultant relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

21. **LEGAL REMEDIES:** All claims and controversies shall be subject to the Mohave County Procurement Code.

22. **CONTRACT AMENDMENTS:** This contract shall be modified only by a written contract amendment signed by the County's Board of Supervisors and persons duly authorized to enter into contracts on behalf of the Consultant.

23. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract shall be read and enforced as though it were included

herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

24. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the valid provision or application.

25. **INTERPRETATION - PAROL EVIDENCE:** This contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

26. **ASSIGNMENT – DELEGATION:** No right or interest in this contract shall be assignable in whole or in part without the written consent of the parties hereto, and no delegation of any duty of Consultant shall be made without prior written permission of the County's Board of Supervisors. This contract and all of the terms, conditions and provisions herein, shall extend to and be binding upon the heirs, administrators, executors, successors, and assigns of the parties hereto. The County shall not unreasonably withhold approval of assignment/delegation and shall notify the Consultant of the County's position within fifteen (15) days of receipt of written notice by the Consultant.

27. **SUBCONTRACTS:** No subcontract shall be entered into by the Consultant with any other party to furnish any of the material/service specified herein without the advance written approval of the County's Procurement Manager. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the sub-consultant were the Consultant referred to herein. The Consultant is responsible for contract performance whether or not sub-consultants are used. The County shall not unreasonably withhold approval and shall notify the Consultant of the County's position within fifteen (15) days of receipt of written notice by the Consultant.

28. **RIGHTS AND REMEDIES:** No provision in this document or in the Consultant's response shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

29. **ACKNOWLEDGMENTS:** Consultant acknowledges that all material or service delivered under this contract shall conform to the specifications of this contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the County shall not alter or affect the obligations of the Consultant or the rights of the County under the foregoing warranties. Additional warranty requirements may be set forth in this document.

30. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor agrees to indemnify, defend, and hold harmless Mohave County, a body politic and corporate of the State of Arizona, its board members, officers, employees, agents and other officials from all claims, damages, losses, and expenses, including but not limited to attorney's fees, court costs, or other alternative dispute resolution costs arising out of, resulting from, or otherwise but for the performance or furnishing of work or services under this Agreement, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, death, or personal injury, or property damage, including the loss of use or diminution in value resulting there from; but only to the extent caused in whole or in part by the actual or alleged negligent acts, errors, or omissions of Contractor, or anyone for whose acts Contractor may be liable. Mohave County reserves the right, but not the obligation, to participate in defense without relieving Contractor of any obligation hereunder.

31. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Consultant hereby assigns to the County any and all claims for such overcharges as to the materials or services used to fulfill the contract.

32. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this contract.

33. **ADVERTISING:** Consultant shall not advertise or publish information concerning this contract without prior written consent of the County.

34. **RIGHT TO INSPECT:** The County may, at reasonable times, and at the County's expense, inspect the place of a Consultant or sub-consultant which is related to the performance of any contract as awarded or to be awarded.

35. **FORCE MAJEURE:** 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 a major occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a sub-consultant unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

    If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall immediately notify the other party in writing of such delay of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be hand-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 modification 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.

36. **INSPECTION:** All material or service is subject to final inspection and acceptance by the County. Material or service failing to conform to the specifications of this contract shall be

held at Consultant's risk and may be returned to the Consultant. If so returned, all costs are the responsibility of the Consultant. Noncompliance shall conform to the cancellation clause set forth in this document.

37. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The County shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

38. **BUSINESS LICENSES AND PERMITS:** Consultant shall maintain in current status all Federal, State, and local registrations, licenses and permits required for the operation of the business conducted by the Consultant as applicable to this contract.

39. **PUBLIC RECORD:** All information contained herein shall become the property of the County and shall become a matter of public record available for review subsequent to the award notification.

40. **SUBSEQUENT EMPLOYMENT:** The County may cancel this contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the County is or becomes, at any time while the contract or any 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. Such cancellation shall be effective when written notice from the Mohave County Board of Supervisors is received by the parties to this contract, unless the notice specifies a later time.

41. **MINORITY/WOMAN BUSINESS ENTERPRISE:** Consultant agrees to give Minority/Woman Businesses the maximum practical opportunity to participate in this contract when possible, by obtaining supplies, materials, and services from such firms.

42. **CONTINUITY:** Consultant shall maintain all pertinent files, records, and documents that relate to the delivery of the services provided in this contract. Consultant shall retain supporting documents, files, and records for at least five (5) years after the termination of this contract.

MOHAVE COUNTY PROCUREMENT OFFICE
700 W. BEALE STREET, KINGMAN, AZ. 86401
P. O. BOX 7000, KINGMAN, AZ 86402-7000

PH: (928) 753-0752 / FAX: (928) 753-0787

OFFER TO THE COUNTY OF MOHAVE, ARIZONA:

The Consultant hereby offers to provide the services listed in the attached contract and based upon the Request for Proposals, including all terms, conditions, specifications, scope of work, amendments, offers and subsequent negotiations, as accepted by the County.

The Public Group
Company Name

Box 5067E
Address

Prescott AZ 86305
County State Zip

Signature of Person Authorized to Sign

Eric Heaps
Printed Name

COO
Title

ACCEPTANCE OF OFFER:

The Offer is hereby accepted.

The Consultant is now bound to provide the services listed in the attached contract, including all terms, conditions, specifications, scope of work, amendments, the Consultant's Offer and any subsequent negotiations, as accepted by the County.

This contract shall henceforth be referred to as Contract No. 10-P-01. The Consultant has been cautioned not to commence any billable work or to provide any material or service under this contract until Consultant receives a purchase order, or is otherwise directed to do so in writing by the undersigned.

MOHAVE COUNTY, a body politic and corporate of the State of Arizona

Awarded this 3 day of May, 2010.

5-3-10
Date Signed

BY: _____
Buster D. Johnson
As Chairman of the Mohave County Board of Supervisors
and not personally.

EXHIBIT 'A' – SCOPE OF PROFESSIONAL SERVICES

SEE ATTACHED PROPOSAL

EXHIBIT 'B' – FEE SUMMARY

Summary of all Fees and Rebates under the Contract

- The Public Group will provide Mohave County with a unique registration webpage that they can share with other Agencies. All Agencies who register via this registration webpage are grouped under the County contract.
- No Fee will be charged for Software Access & Reporting
- Sales Commission on Sold Assets:
  - The Public Group will not charge the County any commission and will pass all costs (10%) on to the Buyers as a bidders charge if the County chooses to set it up this way. The County can also break up the total cost (10%) in any combination they choose between the County and the Buyer.
  - The Public Group will remit an administrative payment to Mohave County each month of 10% as a cooperative payment for all Agencies registered under the County's contract. This 10% administrative payment is based on the revenue collected by The Public Group, and does not include auctions from the County; only their participating members. Payments are made only after the Public Group has received payment from the participating members.
- No listing, re-listing, or minimum auction fees will be charged.
- No implementation or training fees will be charged.
- No technical support fees will be charged.
- No agency or buyer registration fees will be charged.
- The Public Group will collect all auction proceeds, and provide net proceeds to Mohave County Procurement Department. A Buyer's Premium of 10% (7% Revenue and 3% Collection Fee) will apply to each auction. Payment will be remitted on a net 30 basis.

COUNTY OF MOHAVE
NOTICE OF REQUEST FOR PROPOSALS

RFP No. 10-P-01

ONLINE SURPLUS AUCTION SERVICES

INTERESTED OFFERORS MAY DOWNLOAD A COPY OF THIS SOLICITATION FROM THE MOHAVE COUNTY PROCUREMENT WEB SITE AT: www.co.mohave.az.us/depts/purch/purch_default.asp INTERNET ACCESS IS AVAILABLE AT ALL PUBLIC LIBRARIES. INTERESTED OFFERORS MAY ALSO OBTAIN A COPY OF THIS SOLICITATION BY CALLING (928) 753-0752.

Competitive sealed proposals for the specified material or service shall be received by the Procurement Department, 700 W. Beale Street, 1st Floor East, Kingman, Arizona 86401, until the time and date cited. Proposals received by the correct time and date shall be publicly recorded. The Mohave County Procurement Department takes no responsibility for informing recipients of changes to the original solicitation document. Failure to submit amendments with the solicitation response may be grounds for deeming submittal non-responsive.

Proposals must be in the actual possession of the Procurement Department at the location indicated, on or prior to the exact time and date indicated above. Late proposals shall not be considered. The prevailing clock shall be the Mohave County Procurement Department clock.

Proposals must be submitted in a sealed envelope. The Request for Proposals **number, bidder's name and address** shall be clearly indicated **on the outside** of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the responsible Procurement Officer listed below.

PROPOSAL DUE DATE:	**MARCH 4, 2010 AT 2:00 P.M. LOCAL AZ TIME**
PROPOSAL LOCATION:	Mohave County Procurement Department 700 W. Beale Street, 1st Floor East Kingman, Arizona 86401
PRE-PROPOSAL CONFERENCE DATE:	**FEBRUARY 18, 2010**
TIME:	**10:00 A.M. LOCAL AZ TIME**
LOCATION:	Ocotillo Conference Room 700 W. Beale Street, 1st Floor East Kingman, Arizona 86401
QUESTIONS SHALL BE DIRECTED TO:	**Tara Acton,** **Procurement Officer** **(928) 753-0752, EXT. 3** **tara.acton@co.mohave.az.us** Mohave County Procurement Department 700 W. Beale Street, 1st Floor East P.O. Box 7000 Kingman, Arizona 86402-7000

TA
ISSUE DATE: February 4, 2010

INTRODUCTION

Mohave County, Arizona intends to establish a contract with a single online auction service provider offering a comprehensive web based auction system that will incorporate innovative technologies and accommodate future advances in technology.

This contract shall be utilized monthly on an as-needed, if-needed basis and the County reserves the right to dispose of items by any method it deems necessary in accordance with applicable Local, State and Federal law.

BACKGROUND

Prior to 2005 the County conducted annual live auctions to dispose of the following items:

1. Miscellaneous Surplus (e.g. office equipment, office furniture, dead stock, etc.)
2. Surplus Vehicles and Heavy Equipment
3. Lost or Unclaimed Property
4. Confiscated Property

By 2005, the County determined that Miscellaneous Surplus, Lost or Unclaimed Property and Confiscated Property would only be available online through internal reallocation, by competitive bid or quote (when applicable), by donation (if approved in accordance with the Mohave County Procurement Code) or by other means of disposal approved by the Procurement Manager. Surplus Vehicles and Heavy Equipment were also to be offered online; however, if the County determined that online sale would not be beneficial, the County reserved the right to sell these items as the County saw fit. The County intends to continue disposing of items in this manner.

SCOPE OF WORK

Requirements are intentionally generalized to avoid stifling creativity in proposed solutions. Offerors are highly encouraged to provide creative solutions and identify additional areas (scope, requirements and fees). Mohave County expects each Offeror to propose a complete, detailed online surplus auction program, system and implementation solution, addressing all relevant areas which may pertain to establishing and maintaining this type of program.

GOALS

The County's primary performance objectives with an online surplus auction program are as follows:

- Ability to sell all miscellaneous surplus, surplus vehicles and heavy equipment, lost or unclaimed property and confiscated property online;
- Reduction in on-hand surplus inventory and related inventory carrying costs;
- Increased market presence and bidder base;
- Increased bid price for auctioned items;
- Reduction in direct and indirect auction costs;
- Reduction in number of buyers who renege on payment;
- Ease of program administration, including but not limited to: posting of auctions, marketing of auctions, receiving payment from bidders, blocking bidders, and invoicing;
- Ease of use by the bidding community, including but not limited to: auction notification, award notification, "dutch" auctions, and proxy bidding.

ADDITIONAL REQUIREMENTS

In addition to the County's primary performance objectives, the following requirements must be met:

- Contractor shall provide ongoing training opportunities and documentation for the seller and the buyers. Training may be conducted through webinars.
- Contractor shall provide easily accessible and highly responsive technical support and customer service. Problems identified by either the seller or the buyer shall be responded to in writing within forty-eight (48) hours of notification.
- Contractor may have the opportunity under this contract to provide online surplus auction services to other Participating Agencies. A Participating Agency is defined as an agency having an executed Cooperative Purchase Agreement with the County.
- Contractor will be authorized by the County to commence activity with other Participating Agencies pursuant to this contract once all parties have signed an Agency Participation Agreement for this contract. A fully executed Agency Participation Agreement will serve as the Contractor's Notice to Proceed with an entity. The County has the sole discretion of determining which Participating Agencies will or will not be allowed to participate.

INSTRUCTIONS TO OFFERORS

1. **PRE-PROPOSAL CONFERENCE:** The date and time of a prospective pre-proposal conference is indicated on the cover page of this document. The purpose of this conference will be to clarify the contents of this Request for Proposals in order to prevent any misunderstanding of the County's position. Any doubt as to the requirements of this Request for Proposals or any apparent omission or discrepancy should be presented to the County at this conference. The County will then determine the appropriate action necessary, if any, and issue a written amendment to the Request for Proposals. Oral statements or instructions will not constitute an amendment to this Request for Proposals. ***"Persons with a disability or that are unable to physically attend may request a reasonable accommodation by contacting the responsible Procurement Officer at (928) 753-0752. Requests for accommodations must be made forty-eight (48) hours in advance of the event."***

2. **PROPOSAL FORMAT: Original and 3 copies (4 total) of each proposal** should be submitted on the forms and in the format specified in the RFP. The original copy of the proposal should be clearly labeled "Original" and shall be unbound and single-sided. The material should be in sequence and related to the RFP. **The sections of the submittal should be tabbed, clearly identifiable and shall include a minimum of the following sections: Price, Offer and Acceptance, Original RFP, Evaluation Criteria.** The County will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.

3. **PREPARATION OF PROPOSAL:**
   A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles, telegraphic proposals or mailgrams shall not be considered.
   B. The offer and acceptance page shall be submitted with an original ink signature by the person authorized to sign the proposal.
   C. Erasures, interlineations, or other modifications in the proposal shall be initialed in original ink by the authorized person signing the vendor offer.
   D. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
   E. Periods of time, stated as a number of days, shall be in calendar days.
   F. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due time and date.

4. **WHERE TO SUBMIT PROPOSALS:** In order to be considered, the offeror must complete and submit their proposal to the Procurement Office at the location indicated, or prior to the exact time and date indicated on the Notice of Request for Proposal page. The offeror's proposal shall be presented in a sealed envelope. The words "SEALED PROPOSAL" with SERVICE DESCRIPTION, CONTRACT NUMBER, DATE AND TIME OF PROPOSAL OPENING shall be written on the envelope.

5. **OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the County requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the opening time and date.

6. **INQUIRIES:** Any question related to a Request for Proposal shall be directed to the Procurement Officer whose name appears on the front side of this document. The offeror shall not contact or ask questions of the department for whom the requirement is being procured. Questions should be submitted in writing when time permits. The Procurement Officer may require any and all questions to be submitted in writing at the Procurement Officer's sole discretion. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. However, the offeror must not place the number on the outside of an envelope containing questions since such an envelope may be identified as a sealed proposal and may not be opened until after the official proposal

due time and date. Oral interpretations or clarifications will be without legal effect. Only questions answered by formal written Request for Proposal amendment will be binding.

7. **REQUEST FOR ADDITIONAL INFORMATION:** The County reserves the right to request additional information from Offerors for the purpose of explaining the contents of their proposal. Any such request shall be for informational purposes only and does not constitute discussions.

8. **CONTRACT NEGOTIATIONS:** The County reserves the right to enter into negotiations with the Offeror(s) determined to be reasonably susceptible of being selected for award, or to enter into exclusive negotiations with the Offeror whose proposal is deemed most advantageous, whichever is in the County's best interest, for the purpose of negotiation. In the event that exclusive negotiations are conducted and an agreement is not reached, the County reserves the right to enter into negotiations with the next highest ranked Offeror without the need to repeat the formal solicitation process.

9. **AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the County reserves the right to:
   (1) Waive any immaterial defect or informality; or
   (2) Reject any or all proposals, or portions thereof; or
   (3) Reissue the Request for Proposal.

   A response to any Request for Proposal is an offer to contract with the County based upon the terms, conditions, and specifications contained in the County's Request for Proposal. Proposals do not become contracts unless and until they are executed by the County's Procurement Manager or the Mohave County Board of Supervisors. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a contract amendment, or by mutually agreed terms and conditions in the contract documents.

10. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each Offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the Contract and otherwise satisfy itself as to the expense and difficulties attending the performance of the work. The submission of a Proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the Contract, for lack of such familiarization.

11. **LATE PROPOSALS:** Late proposals shall not be considered. Kingman is considered a "rural" area by many express delivery carriers and thus, they **do not** guarantee priority delivery (next day). Offerors are encouraged to keep this in mind when arranging delivery of their proposals and are advised herein that late proposals shall be rejected and returned to the bidder regardless of reason for being late.

12. **WITHDRAWAL OF PROPOSAL:** At any time prior to a specified solicitation due time and date an offeror (or designated representative) may withdraw the proposal. Facsimile or telephone withdrawals shall not be considered.

13. **AMENDMENT OF REQUEST FOR PROPOSALS:** The Offeror shall acknowledge receipt of a Request for Proposal amendment by signing and returning the document by the specified due time and date.

14. **SUBMITTAL:** The offer and contract award sheet, the pricing schedule, and any solicitation amendments must be signed and returned with the offeror's proposal.

15. **CONFIDENTIAL INFORMATION:** If a person believes that any portion of a proposal, bid, offer, specification, protest, or correspondence contains information that should be withheld, then the Procurement Manager should be so advised in writing (price is not confidential and will not be withheld). The County shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information, unless the person utilizes the "Protest" provision.

16. **SUBCONTRACTORS:** Offeror must list any subcontractor to be utilized in performance of services herein. For each subcontractor, detail on respective qualifications must be included.

17. **UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the County, within ten (10) days after Notice of Intent to Award, all documents necessary to the successful execution of the contract.

18. **EXCEPTIONS TO CONTRACT PROVISIONS:** A response to any Request for Proposal is an offer to contract with the County based upon the contract provisions contained in the County's Request for Proposal, including but not limited to, the specifications, scope of services and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language and clearly demonstrate how the County will be better served by the substitute language. However, the provisions of the Request for Proposal cannot be modified without the express written approval of the Procurement Manager or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Procurement Manager or his designee, the contract provisions contained in the County's Request for Proposal shall prevail.

19. **PROPOSAL RESULTS:** Proposal results **are not** provided in response to telephone inquiries. A tabulation of proposals received is on file in the Procurement Department and available for review after official contract award.

20. **VENDOR APPLICATION:** Prior to the award of a contract, the successful Offeror shall have a completed vendor application on file with the Department of Procurement. The Vendor Application may be downloaded off of the Procurement Department website at: http://resource.co.mohave.az.us/Repository/Attachments/Vendorapplication-W-9Form2008_633887732863450000.pdf Internet access is available for use at all County public libraries.

PROPOSAL EVALUATION REQUIREMENTS

I. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

A.	**Method of Approach**	**(35 Points)**
B.	**Price Proposal (Rebates and Fees)**	**(35 Points)**
C.	**Qualifications & Experience**	**(30 Points)**

II. REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA:

The narrative portion and the materials presented in response to this Request for Proposal shall be submitted in the same order as requested and must contain, at a minimum, the following:

A. METHOD OF APPROACH

Roles and Expectations:

Offeror shall describe in detail roles and expectations for the Contractor and County; include the following:

- Identify any subcontractors and/or third parties that will be involved in the successful implementation of the online surplus auction program.
- Provide an implementation schedule, including tasks, resources, durations, and dependencies.
- Program Administration Training.
- Responsibility for receiving payment from bidders.
- Responsibility for handling item disputes involving payments, etc.

Services:

- Describe how the Offeror proposes to market the program to potential bidders. Provide samples of marketing efforts that have worked effectively in the past attracting new bidders.
- Indicate the average number of "hits" per day the proposed website receives.
- Describe how the Offeror plans to use the contract in marketing itself (e.g. use of Mohave County's name in promotional materials, seminars, magazine articles).
- Describe the Offeror's plan to market the contract to other public entities for inclusion as a Participating Agency.
- Provide samples of instructional documentation that is available to the seller and the buyers. Indicate any distribution restrictions that may apply and how often the materials are updated.
- Describe the Offeror's plan to minimize the number of buyers who renege on awarded auctions and the tools available to the seller if this occurs.
- Describe the types of items that may be sold on the proposed website and any exclusions (e.g. items with an estimated value less than $25.00).
- Describe training services that are available to the seller and the buyers.
- Describe how the Offeror proposes to meet the County's need for technical support.
- Describe what types of other support your company provides (e.g. – on-call, hotline, on-site emergency assistance, etc.).
  - What are the hours and days of other types of support (7 days/week, 24 hours/day)?
  - Do you provide upgrade packages for support? If so, specify types and related information (e.g. – type, cost, time).
  - Distinguish between support available to the seller and support available to the buyers.
- Indicate payment options accepted by the Offeror (e.g. – Visa, MasterCard, etc.).

Software Functionality

- The County is looking for enhanced software capabilities for the online surplus program. Describe the capabilities and functionality available to the County and how often upgrades are made to the system including the testing processes followed by the Offeror before implementation of an upgrade.
- Describe how customer feedback (from sellers and buyers) is received, considered and responded to, including typical time frames and ability to request customizations.
- Describe the accounting process and online capabilities, including but not limited to documentation of payment and non-payment by bidders and invoicing.
- Describe the various tools and customizations available to the seller in creating auctions, including but not limited to, internal reallocation, "private" auctions (e.g. law enforcement only), dutch or split auctions, reserve prices, minimum bid requirements, bidder deposit requirements, ability to copy previous auctions, ability to repost previous auctions, etc.
- Describe the various tools available to the bidder in participating on auctions, including but not limited to, email notifications, proxy bidding, identity protection, dynamic closing, etc.
- Describe what reporting capabilities are available to the seller.
- Describe the system's security capabilities and the privacy protection available to both the seller and the buyers.
- Provide website information and administrative access to the site. Include instructions and screen shots for navigating the various site tools.

B. PRICE PROPOSAL (REBATES AND FEES)

Fees

Discuss and itemize, by auction size, all fees and any costs related to the program (including training, implementation, etc.) that will be charged or withheld from the County, other agencies and vendors and how the fees will be collected.

Rebates

Provide information on available rebates. As the Lead Agency, discuss if the County will receive rebates on the County's auctions and/or rebates on the auctions other agencies post. Offerors shall state proposed percentages, how rebates will be calculated, and how and when they will be paid to the County.

C. QUALIFICATIONS & EXPERIENCE *(Specific to Administering Online Surplus Auction Programs)*

Provide the following information:

- State Offeror's principal place of business.
- Indicate the number of years the Offeror's online surplus auction program has been in place.
- Resumes and information on key personnel, including an account manager. Can Offeror commit to the availability of these individuals for work under this contract?
- A current Client List, for each client include:
  - the year the online surplus auction program was established
  - where the client is in the implementation process
  - online surplus auction dollar volume
  - number of online surplus auctions conducted.
- A minimum of three (3) references, preferably from government agencies similar to Mohave County, Arizona. Include the reference's contact name, title, phone and description of their online surplus auction program.

- Indicate the number of auctions posted on the proposed website in the last two (2) years and the number of auctions that were not awarded due to buyer default. Provide a listing of the auctions including final price paid.
- Indicate how many bidders are currently registered with the proposed website. Distinguish between the number registered nationally, in the State of Arizona, and in Mohave County.

III. GENERAL

A. Shortlist:

The County reserves the right to shortlist the offerors on all of the stated criteria. However, the County may determine that short-listing is not necessary.

B. Interviews:

The County reserves the right to conduct interviews with all or some of the offerors at any point during the evaluation process. However, the County may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria.

C. Additional Investigations:

The County reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any firm submitting a proposal.

SPECIAL TERMS AND CONDITIONS

1. KEY PERSONNEL:

It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.

A. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the County.

B. If key personnel are not available for work under this contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the County, and shall, subject to the concurrence of the County, replace such personnel with personnel of substantially equal ability and qualifications.

2. TERM OF THE CONTRACT:

The term of the contract shall commence upon award and shall remain in effect for a period of one (1) year thereafter, unless terminated, canceled or 3etended as otherwise provided herein. The Contractor agrees that Mohave County shall have the right, at its sole option, to renew the contract for four (4) additional one-year periods or portions thereof. In the event that the County exercise such right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the possible exception of rate adjustments and minor scope additions and/or deletions which may be agreed upon.

3. RATE ADJUSTMENTS:

The County will review fully documented requests for rate adjustment after services have been provided for a one (1) year period. Any rate adjustment will only be made at the time of contract renewal or extension and will be a factor in the extension review process and must be fully justified in writing. The County will determine whether the requested rate adjustment or an alternate option is in the best interest of the County. Any rate adjustment will be effective upon the effective date of the contract extension or renewal and shall remain in effect during the extension or renewal.

4. COOPERATIVE LANGUAGE:

Any contract resulting from this solicitation shall be fore the use of Mohave County. In addition, specific eligible political subdivisions and nonprofit education or public health institutions may also participate at their discretion. In order to participate in any resultant contract, a political subdivision or nonprofit educational or public health institution must enter into a cooperative purchasing agreement with the Mohave County Procurement Department.

Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The County shall not be responsible for any disputes arising out of transactions made by others.

STANDARD TERMS AND CONDITIONS

1. **CERTIFICATION:** By signature in the offer section of the Offer and Acceptance page, offeror certifies:
   A. The submission of the offer did not involve collusion or other anti-competitive practices.
   B. The proposer shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. § 31-1461, et seq.
   C. The proposer has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
   D. The proposer submitting the offer hereby certifies that the individual signing the proposal is an authorized agent for the company and has the authority to bind the proposer to the contract.

2. **TERMINATION OF CONTRACT:** This contract may be terminated at any time by mutual written consent, or by the County, with or without cause, upon giving thirty (30) days written notice to you. The County at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the County shall be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the County before the effective date of termination.

   The County reserves the right to cancel the whole or any part of this contract due to failure of contractor to carry out any term, promise, or condition of the contract. The County will issue a written ten (10) day notice of default to contractor for acting or failing to act as in any of the following:

   In the opinion of the County, contractor provides personnel that do not meet the requirements of the contract;

   In the opinion of the County, contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;

   In the opinion of the County, contractor attempts to impose on the County personnel or materials, products or workmanship, which is of an unacceptable quality.

   Contractor fails to furnish the required service and/or product within the time stipulated in the contract;

   In the opinion of the County, contractor fails to make progress in the performance of the requirements of the contract and/or give the County a positive indication that contractor will not or cannot perform to the requirements of the contract.

   Each payment obligation of the County created hereby is conditioned upon the availability of County, State and Federal funds which are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the County and available for the continuance of service herein contemplated, the contract period for the service may be terminated by the County at the end of the period for which funds are available. The County shall notify contractor at the earliest possible time which service will or may be affected by a shortage of funds. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

3. **RECORDS:** Internal control over all financial transactions related to this contract shall be in accordance with sound fiscal policies. The County may, at reasonable times and places, audit the books and records of you or any and all of your subcontractors. Said audit shall be limited to this contract and its scope of services.

4. **ARBITRATION:** It is understood and agreed that no provision of the contract relating to arbitration or requiring arbitration shall apply to or be binding upon the County except by the County's express written consent given subsequent to the execution of the contract. However, at the County's sole option, or by other means expressly approved by the County, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. § 12-1501, et seq. Contractor shall continue to render the services required by this contract without interruption, notwithstanding the provisions of this section.

5. **INDEPENDENT CONTRACTOR:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.

   Contractor shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the County, and that such days do not accumulate for the use of same at a later date.

   Mohave County will not provide any insurance coverage to the Contractor, including Workmen's Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from a County payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

6. **AFFIRMATIVE ACTION:** Contractor agrees to abide by the applicable provisions of the County. Contractor, your subcontractor(s) and supplier(s) agree to adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, promote and upgrade the position of employees regardless of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status, or marital status and who agree and are responsive to the County's goals.

7. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the County. The County reserves the right to obtain like goods or services from another source when necessary.

8. **PATENT INFRINGEMENT:** The procuring agency should advise the Contractor of any impending patent suit and provide all information available. The Contractor shall defend any suit or proceeding brought against the procurement agency based on a claim that any equipment, or any part thereof, furnished under this contract constitutes an infringement of any patent, and the Contract shall pay all damages and costs awarded therein, excluding incidental and consequential damages, against the procuring agency. In case said equipment, or any part thereof, is in such suit held to constitute infringement and use of said equipment or part in enjoined, the Contractor shall, at its own expense and at its option, either procure for the procuring agency the right to continue using said equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing.

9. **DUPLEXED/RECYCLED PAPER:** The Contractor shall ensure that, when practicable, all printed materials produced by the Contractor in the performance of this contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.

10. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

11. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the County for the purpose of assuring that no information contained in its records or obtained from the County or from others in carrying out its functions under the contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the contract. Persons requesting such information should be referred to the County. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of contractor as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the County.

12. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the cancellation clause set forth within this document.

13. **GRATUITIES:** The County may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the contractor or any agent or representative of the Contractor, to any officer or employee of the County amending, or the making of any determinations with respect to the performing of such contract. In the event this contract is canceled by the County pursuant to this provision, the County shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

14. **APPLICABLE LAW:** This contract shall be governed by, and the County and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in laws pertaining specifically to the County. This contract shall be governed by the law of the State of Arizona, and suits pertaining to this contract shall be brought only in Federal or State courts in the State of Arizona.

15. **CONTRACT:** The contract shall be based upon the Request for Proposal issued by the County and the offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The County reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the County's Procurement Manager, shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between the County and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

16. **LEGAL REMEDIES:** All claims and controversies shall be subject to the Mohave County Procurement Code.

17. **CONTRACT AMENDMENTS:** This contract shall be modified only by a written contract amendment signed by the County's Procurement Manager and persons duly authorized to enter into contracts on behalf of the Contractor.

18. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

19. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the valid provision or application.

20. **PROTECTION OF GOVERNMENT BUILDINGS:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on County property. If the Contractor fails to do so and damages such buildings, equipment and vegetation, the Contractor shall replace or repair the damage at no expense to the County, as directed by the Procurement Manager. If the Contractor fails or refuses to make such repair or replacement, then the Contractor shall be liable for the cost thereof, which may be deducted from the contract price.

21. **INTERPRETATION - PAROL EVIDENCE:** This contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

22. **ASSIGNMENT - DELEGATION:** No right or interest in this contract shall be assigned by the contractor without prior written permission of the County, and no delegation of any duty of Contractor shall be made without prior written permission of the County's Procurement Manager. The County shall not unreasonably withhold approval and shall notify the Contractor of the County's position within fifteen (15) days of receipt of written notice by the Contractor.

23. **SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the County's Procurement Manager. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used. The County shall not unreasonably withhold approval and shall notify the Contractor of the County's position within fifteen (15) days of receipt of written notice by the Contractor.

24. **RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any

claim or default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

25. **PROTESTS:** A protest shall be in writing and shall be filed with the Procurement Manager. A protest of a Request for Proposal shall be received at the Procurement Office before the Request for Proposal opening date. A protest of a proposed award or of an award shall be filed within ten days after the protestor knows or should have known the basis of the protest. A protest shall include:
   A. The name, address, and telephone number of the protestor;
   B. The signature of the protestor or its representative;
   C. Identification of the Request for Proposal or contract number;
   D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and,
   E. The form of relief requested.

26. **WARRANTIES:** Contractor warrants that all material or service delivered under this contract shall conform to the specifications of this contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the County, shall not alter or affect the obligations of the Contractor or the rights of the County under the foregoing warranties. Additional warranty requirements may be set forth in this document.

27. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless Mohave County, a body politic and corporate of the State of Arizona, it's board members, officers, employees, agents and other officials (hereafter called "County") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, court costs or other alternative dispute resolution costs arising out of or resulting from Contractor's work or services; provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, death, personal injury, or property damage, including the loss of use or diminution in value, resulting therefrom; but only to the extent caused in whole or in part by the actual or alleged negligent acts, errors or omissions of Contractor, or anyone for whose acts Contractor may be liable. Contractor shall not be obligated to indemnify, defend and hold harmless the County for any claims to the extent that the injury or damage is attributable to or arose from the negligence or willful misconduct on the part of the County, its agents or employees. The County reserves the right, but not the obligation, to participate in defense without relieving the Contractor of any obligation hereunder. The amount and type of insurance coverage requirements set forth in this contract shall in no way be construed as limiting the scope of the indemnity in this paragraph. The provisions of this Section shall survive the expiration or early termination of this Contract.

28. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The County maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the County any and all claims for such overcharges as to the materials or services used to fulfill the contract.

29. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this contract.

30. **ADVERTISING:** Contractor shall not advertise or publish information concerning this contract without prior written consent of the County.

31. **RIGHT TO INSPECT:** The County may, at reasonable times, and at the County's expense, inspect the place of a Contractor or subcontractor which is related to the performance of any contract as awarded or to be awarded.

32. **FORCE MAJEURE:**
   A. 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.

Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

B. 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 practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-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 modification 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.

33. **INSPECTION:** All material or service is subject to final inspection and acceptance by the County. Material or service failing to conform to the specifications of this contract shall be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance shall conform to the cancellation clause set forth in this document.

34. **EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the County and shall not be used or released by the Contractor or any other person except with prior written permission by the County.

35. **TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the County until the County actually receives the material or service at the point of delivery, unless otherwise provided within this contract.

36. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this contract. If a tender is made which does not fully conform, this shall conform to the cancellation clause set forth within this document.

37. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the County, shall constitute breach of the contract as a whole. Noncompliance shall conform to the cancellation clause set forth within this document.

38. **LIENS:** All materials, services, and other deliverables supplied to the County under this contract shall be free of all liens other than the security interest held by the Contractor until payment in full is made by the County. Upon request of the County, the Contractor shall provide a formal release of all liens.

39. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The County shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

40. **LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.

41. **COST OF PROPOSAL PREPARATION:** The County shall not reimburse the cost of developing, presenting, or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically providing adequate information in a straightforward and concise manner.

42. **PUBLIC RECORD:** All proposals submitted in response to this request shall become the property of the County and shall become a matter of public record available for review subsequent to the award notification.

43. **SUBSEQUENT EMPLOYMENT:** The County may cancel this contract without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the County is or becomes, at any time while the contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this contract with respect to the subject matter of the contract. Such cancellation shall be

effective when written notice from the Procurement Manager is received by the parties to this contract, unless the notice specifies a later time.

44. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of proposal as non-responsive.

Should: Indicates something that is recommended but not mandatory. If the offeror fails to provide recommended information, the County may, at its sole option, ask the offeror to provide the information or evaluate the proposal without the information.

May: Indicates something that is not mandatory but permissible.

For purposes of this contract and Scope of Work, the following definitions shall apply:

"County"	Mohave County, Arizona
"Contractor/Consultant"	The individual, partnership, or corporation who, as a result of the competitive proposal process, is awarded a contract by Mohave County.
"Contract"	The legal agreement executed between Mohave County, AZ and the Contractor/Consultant.
"Contract Representative"	The County employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.
"Procurement Manager"	The contracting agent for Mohave County, Arizona.

45. TERRORISM COUNTRY DIVESTMENTS: The successful Contractor shall at no time during the term of the contract be in violation of the U.S. Export Administration Act. By entering into the contract, the Contractor warrants compliance with **A.R.S. § 35-391**.

46. BUSINESS OPERATIONS IN SUDAN AND/OR IRAN: The successful Contractor shall not have scrutinized business operations in Sudan and/or Iran. By entering into the contract, the Contractor warrants compliance with **A.R.S. § 35-397**.

47. LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws. County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion. Contractor shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Contractor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Contractor shall be entitled to an extension of time, but not costs.

MOHAVE COUNTY PROCUREMENT DEPARTMENT
700 W. BEALE ST., 1st FLOOR EAST
KINGMAN, ARIZONA 86401

PROCUREMENT OFFICER: Tara Acton
PH: (928) 753-0752 Ext. 3 / FAX: (928) 753-0787

OFFER FORM

TO MOHAVE COUNTY:
The Undersigned hereby offers and agrees to furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal.

For clarification of this offer, contact:

_____
Company Name

_____
Address

_____
City State Zip

_____
Signature of Person Authorized to Sign

_____
Printed Name

_____
Title

Name:_____

Phone: _____

Fax: _____

E-mail: _____

ACCEPTANCE OF OFFER:
The offer is hereby accepted.

The Contractor is now bound to provide the materials or services listed in RFP# 10-P-01, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by Mohave County.

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives this signed sheet, or written notice to proceed.

Awarded this____ day of _____20_____

_____
AUTHORIZED SIGNATURE