PROFESSIONAL SERVICES CONTRACT 042913

BETWEEN

GILA COUNTY

AND

ULIBARRI-MASON GLOBAL HR, LP

THIS AGREEMENT is made and entered into this 14th **Day of** May, 2013 by and between the Gila County, AZ, hereinafter referred to as "GILA COUNTY" and Ulibarri-Mason Global HR, LP (UM Global HR). Hereinafter referred to as "CONTRACTOR".

RECITALS:

Whereas, GILA COUNTY is seeking consultant services for a classification and compensation study of employee salaries, that is consistent and fair in internal equity and external parity, is easy to administer over time, and that will enhance GILA COUNTY'S ability to attract, motivate, and retain quality employees to efficiently and cost-effectively deliver services and programs to the citizens of Gila County: and

Whereas, GILA COUNTY desires to retain a firm to provide a plan that: ensures positions performing similar work with essentially the same level of complexity, responsibility, knowledge, skills and abilities are classified together; recognizes the differences and similarities in positions irrespective of the branch of government or whether it is an elected official's office or an appointed department head's department; provides salaries commensurate with assigned duties; outlines promotional opportunities and provides recognizable compensation growth; provides justifiable pay differential between individual classes; recognizes differing work schedules and service needs; and continues to be current with changes in the consumer price index and relevant labor markets; and

Whereas, GILA COUNTY issued a Request for Proposals (RFP 012313) in order to obtain services; and

Whereas, CONTRACTOR submitted the successful proposal; and

Whereas, the initial term of the contract will be for a period of one year following award. GILA COUNTY has approved a contract amount for a period of *32 weeks* (approximately 7 months) of $89,000 for services to be performed as outlined in the above scope of work and attachments, and any additional fee for "service work" as may be decided by GILA COUNTY for the remainder of the one (1) year term and beyond, at the discretion of GILA COUNTY, and noted below in Section 2 "Additional Services"; and

Whereas, this is a 1-year award, and GILA COUNTY maintains the right to amend contract conditions and requirements of the arrangement to reflect the most current strategic positions and/or directions, the anticipated award of this contract is May 14, 2013 with work to begin as soon as a contract is executed and contract deliverables due by December 19, 2013 or as amended by GILA COUNTY..

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by the GILA COUNTY, the parties agree to the following:

1. SCOPE OF WORK:

The CONTRACTOR shall develop a classification and compensation plan, per Attachments A, B, C and D, that is fair, equitable, and competitive with both public and private employers in the surrounding geographic market area from which the County recruits, and is supportive of the County's desire to be competitive with area markets in order to attract, motivate, and retain quality employees. The criteria used to determine competitiveness may vary depending upon the specific position.

A. Study Methodology

1) Create for County review and approval an employee interview instrument (EII) which may include a position description questionnaire (PDQ) to assist in the updating of existing job descriptions.
2) Develop for County review and approval a list of comparable private and public employers to be used in the salary survey.
3) Perform a salary survey including base pay, benefits, and any variable pay utilizing the approved list of comparable employers.
4) Evaluate current pay grades considering issues such as: number of pay grades; proposed additions, deletions, and/or consolidations; broad-banding if deemed appropriate; and, appropriate spread between minimum and maximum of pay grades.
5) Implement CONTRACTOR's proposed process for communications with managers, supervisors, and employees during each step of the study. Include meetings with, and presentations to, employees and County elected officials, department directors and Human Resources departmental staff. Include your recommended procedure for employees who may want to make inquiries into your recommendations.
6) Implement CONTRACTOR's proposed on-site interactions with County employees during the

data collection and review phase of the study; explain how you will involve all employees in the job analysis phase of the project in one manner or another, i.e. small groups, large groups, or one on one.

7) Conduct at a minimum (as stated in CONTRACTOR's proposal", the number and type of presentations of the Classification and Compensation Plan or portions thereof, to the Countywide Leadership Group and/or the Gila County Board of Supervisors.

B. STATEMENT OF WORK (Deliverables)

1) Develop a classification plan that facilitates ongoing compensation analysis and reporting based on similarly-situated employees, similar skills, qualifications, responsibilities, certification, licenses or degrees and pay, using job family groupings and EEO job categories that compare with EEOC guidelines for government employers.
2) Recommend appropriate classification and pay grade assignments for all positions based upon internal county-wide equity and external parity.
3) Recommend a position titling structure (including supervisory/management) which defines consistent levels of responsibility across the organization.
4) Recommend criteria and propose a process for the assignment of exempt and non-exempt status in accordance with the Fair Labor Standards Act (FLSA).
5) Recommend an appropriate number of job descriptions and assist Gila County in updating and re-writing all job descriptions. Include wording/language consistent with Americans with Disabilities Act (ADA) requirements.
6) Propose a policy and procedure to address employees whose base pay exceeds the maximum of their pay range, if necessary.
7) Recommend alternative methods of implementing the new classification and compensation plan including placing all employees within the new plan. Provide the advantages, disadvantages, and the cost of each alternative.
8) Recommend classification and pay administration practices to include consideration of pay for performance and skill-based pay which may be suitable for specific classifications that support our recruitment and retention efforts.
9) Recommend pay administration policies including but not limited to: movement through grades, adjustments within pay grades, adjustments for additional duties (temporary or permanent), reclassifications, promotions, transfers, demotions, career ladders, etc.
10) Provide a manual (electronic) of instructions and training materials; provide actual training to Human Resources staff to administer the proposed classification and compensation system; if

necessary, indicate technology required and the availability of software for that purpose.

11) Provide a process for on-going plan administration after implementation, which will maintain the integrity of the plan. Include recommendations on annual pay grade market or cost of living adjustments.

2. ADDITIONAL SERVICES:

GILA COUNTY may desire services to be performed which are relevant to this Contract but have not been included in the scope of the services listed above, and CONTRACTOR agrees to perform said services upon the written request of the Gila County. If additional costs, outside of that provided in the scope of work are deemed necessary, such costs will be estimated by CONTRACTOR and negotiated with CONTRACTOR and GILA COUNTY. Such additional services shall be confirmed and approved in writing by GILA COUNTY, prior to CONTRACTOR performing said services. These additional services could include, but are not limited to, any of the following:

A. Work requested by GILA COUNTY in connection with any other matter or any item of work or any item of work not specified herein;

B. Work resulting from substantial changes ordered by GILA COUNTY in the nature or extent of the project, and,

C. Any other work related to and resulting as a consequence of on-going results that were unforeseen and cannot be accomplished within the budget. Any additional fees have to be approved by GILA COUNTY in advance, and at no time will additional billing be allowed without written approval by GILA COUNTY.

3. GILA COUNTY FURNISHED SERVICES:

GILA COUNTY agrees to:

A. Guarantee access to and make provisions for the CONTRACTOR and CONTRACTOR's employees assigned to this project, to enter upon COUNTY property public and private lands as required to perform their work.

B. Make available all pertinent data and records for review in a timely manner and as determined and approved by GILA COUNTY.

C. Assign a project sponsor and/or a project manager and/or a project team to work with the CONTRACTOR and CONTRACTOR's employees for the purpose of successfully completing the project.

4. FEES:

The fees for furnishing services under this Contract shall be based on the fee schedule as submitted and approved by GILA COUNTY. Said fees and any additional "Service Fees" shall remain in effect for the entire term of the contract.

5. MAXIMUM COST TO THE COUNTY:

The cost to GILA COUNTY for the services to be provided under this agreement is $89,000 for the first 32 weeks, including direct non-salary expenses, with the understanding that exceptions can be made at the discretion of GILA COUNTY and according to the terms stated in Section 2, Additional Services.

6. PAYMENT:

Payment will be made after receipt of services that coincide with the general project timeline and within 30 calendar days of receipt of an approved invoice. Invoice shall be sent to: Accounts Payable, Gila County, AZ, 1400 E Ash Street, Globe, Arizona 85501 by the CONTRACTOR on a net 30-day basis unless discount terms are offered. Invoices will include the purchase order number, date of service, a list of and description of services completed.

The invoices for services under this Contract shall be issued on a monthly fee basis for work performed during the period.

With respect to any additional services provided under this Contract as specified in Section 2: Additional Services hereof, CONTRACTOR shall not be paid unless CONTRACTOR has received written authorization from the GILA COUNTY for the additional services prior to incurring the costs associated therewith. Said additional services shall be charged at the rate set forth and agreed on by GILA COUNTY and CONTRACTOR.

7. CONTRACT PERFORMANCE TIME:

This contract will be in effect for one (1) year from the date of its execution and may be extended at the discretion of GILA COUNTY. All the work required by this contract shall be completed and ready for acceptance by GILA COUNTY according to the project plan, Attachment B, and as negotiated and approved in writing by GILA COUNTY. This Agreement shall commence on this day 14Th of May 2013.

8. WORKER'S COMPENSATION AND OTHER REQUIRED INSURANCE:

The CONTRACTOR will furnish a certificate and proof of liability and other insurance as may be required by the GILA COUNTY and upon its requests.

9. NONDISCRIMINATORY EMPLOYMENT:

In connection with the execution of this Contract, the CONTRACTOR shall fully comply with GILA COUNTY'S non-discrimination policy cited below.

> "Gila County is an Equal Opportunity Employer committed to applying the principles of State and Federal anti-discrimination laws to give equal opportunity for all persons employed or seeking employment without regard to race, color, religion, sex, age, national origin or disability, except in the case of a bona-fide occupational qualification. The County also maintains a work place free of harassment and intimidation."

CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

10. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to the CONTRACTOR and GILA COUNTY and may not be transferred or assigned without the express prior written consent of GILA COUNTY.

11. LICENSING AND PERMITS:

The CONTRACTOR and its affiliate partner shall maintain all appropriate licenses throughout the life of this Contract and if additional services become necessary, CONTRACTOR shall produce evidence of expiration extension of any and all appropriate licenses. CONTRACTOR shall also obtain any and all permits, which might be required by the work to be performed herein.

12. RECORDS AND SECURITY OF DATA:

Under all the applicable Federal and State Law, including but not limited to Freedom of Information Act, and Privacy Act of 1974, the CONTRACTOR will:

A. Submit all reports and invoices specified in the Agreement.

B. Preserve and make available all records for a period of 5 years from the date of final payment

under this Agreement and for such period as is required by any other paragraph of the Agreement.

C. Secure Data - All GILA COUNTY departmental and employee data or any type of data pertaining to employee records that the CONTRACTOR may become privileged to obtain will be stored in a secure and encrypted server using security measures including but not limited to login names and password for access controls, firewalls, SSL and TLS Certificates for data transmissions through a Secured FTP site with 256 Bit encryption and authentication. Additionally, all data records will contain numeric identification for analysis purposes with no other personal identification, social security numbers or other private identification characteristics.

D. Refrain from disclosing any information to general public without the written consent of GILA COUNTY.

E. Refrain from disclosing any information containing personally identifiable data to the general public.

13. INDEMNIFICATION:

The CONTRACTOR agrees to indemnify, defend, and hold GILA COUNTY harmless from any and all liabilities, which it may incur as a consequence of this contract and for any and all claims and losses to anyone who may be injured or damaged by reason of CONTRACTOR's willful misconduct or negligent performance of this contract. GILA COUNTY does not waive any of its immunities from lawsuit or damages, or both, as provided by the Arizona Torts Claims Laws, as a public institution, whether granted by common law or statute and nothing contained in the agreement or any action required of the GILA COUNTY by the agreement shall be interpreted to be such a waiver.

14. COMPLIANCE WITH APPLICABLE LAWS AND GILA COUNTY POLICIES:

The CONTRACTOR shall comply with any and all federal, state, and local laws, and GILA COUNTY policies affecting the services covered by this contract, including Attachment D.

15. NOTICES:

This Contract shall be managed and administered on GILA COUNTY's behalf by the Department set forth below. All invoices shall be submitted and approved by this Department and all notices shall be given to the parties at the following location:

Department: GILA COUNTY HUMAN RESOURCES

Attention: Linda Eastlick

With a copy to:

Attention: accountspayable@co.gila.az.us

CONTRACTOR Notices shall be given to Contractor at the following address

Attention: **Dr. Daniel Ulibarri**

3010 LBJ Freeway, Suite 1200

Dallas, TX 75234

Off: (972) 919 – 6183 24/7 VOIP: (214) 452 – 8993

16. TITLE:

It is understood that any and all documents, information and reports concerning this project prepared by and/or submitted to or from the CONTRACTOR, shall be the property of GILA COUNTY. The CONTRACTOR may retain reproducible copies of drawings and copies of other working documents. In the event of the termination of this Contract, for any reason what so ever, CONTRACTOR shall promptly turn over all information, writing and documents to GILA COUNTY without exception or reservation as may be requested by GILA COUNTY.

17. TERMINATION:

1. GILA County may terminate this Agreement with thirty (30) days written notice. The County will pay for any services provided by the CONTRACTOR up until that time.
2. The CONTRACTOR may terminate this Agreement within thirty (30) days written notice for reason of non-payment of invoices that became 90 days or more in arrears. Sufficient reminders shall be provided prior to termination notice.
3. The CONTRACTOR and GILA COUNTY shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes, or other forces over which the CONTRACTOR or GILA COUNTY have no control.

4. In the event of termination that is not caused by the fault of the CONTRACTOR, the CONTRACTOR shall be paid for services performed to the date of termination in accordance with the terms of this Contract.

18. RELATIONSHIP BETWEEN THE PARTIES:

It is expressly understood that in the performances of the services herein, the CONTRACTOR, and the agents and employees thereof, shall act in an independent capacity and as an independent CONTRACTOR and not as officers, employees or agents of GILA COUNTY. CONTRACTOR agrees and covenants to comply with policies and restrictions as may be required by GILA COUNTY.

19. AMENDMENT:

Since this is a one-year plan, GILA COUNTY maintains the right to amend contract conditions and requirements of the project to reflect the most current strategic position and/or direction. This Contract may be amended or modified only by written agreement of the parties and with due consideration of costs impact.

20. JURISDICTION AND VENUE:

This contract shall be construed in accordance with the laws of the State of Arizona and the parties hereto agree that venue shall be in GILA COUNTY, Arizona.

21. TRAVEL EXPENSES

Ordinary travel associated with the planned scope of work, is not reimbursable and will be incurred by the CONTRACTOR as an overhead expense. An exception will be that any requested travel associated with Section 2 Additional Services requested by GILA COUNTY shall be included as either reimbursable or built into a negotiated cost for such additional services. All such travel costs will meet and adhere to the requirements of GILA COUNTY travel policies.

22. AGREEMENT

The Agreement between the Parties consists of this Agreement, Attachment A, GILA COUNTY RFP #012313, Attachment B (RFP 012313), Attachment C (Project Timeline/Plan) and Attachment D Gila County Contractor Standard Terms and Conditions Addendum, (as they relate to the terms and conditions of this contract.

This Agreement supersedes all prior agreements, written or oral, between CONTRACTOR and

GILA COUNTY and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by GILA COUNTY and CONTRACTOR.

In the event of conflict, the CONTRACTOR and GILA COUNTY agree to adhere to GILA COUNTY's Policy Requirements. To this effect they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

23. SEVERABILITY

If any part of this Agreement shall be held unenforceable, the rest of the Agreement will never the less remain in full force and effect.

Attachments:

Attachment A: RFP #012313

Attachment B: Ulibarri-Mason Global HR, LP "Proposal" in response to RFP 012313

Attachment C: Project Plan/Timeline, Pages P2 and P3 of "Proposal"

Attachment D: Gila County Contractor Standard Terms and Conditions Addendum

Other: Any GILA COUNTY contract policies and requirements for Professional Services Contracts as required

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the dates hereinbefore indicated.

ULIBARRI-MASON GLOBAL HR LP	GILA COUNTY
By	By
Dr. Daniel Ulibarri	Michael A. Pastor
President, Ulibarri-Mason Global HR LP	Chairman of the Board of Supervisors
	ATTEST:
	Marian Sheppard, Chief Deputy Clerk Approved as to form:
	Bryan Chambers, Deputy Attorney Principal

ATTACHMENT "D"

Gila County Contractor Standard Terms and Conditions Addendum

A. Addendum Applicability

Contractor and Gila County agree that the terms and conditions of this Addendum shall apply to and govern the contractual relationship between Contractor and Gila County and shall supplement any other contract or agreement entered into between the parties. In the event that the terms and conditions in this Addendum conflict with any provision of any other agreement entered into between the Contractor and Gila County (including a superiority provision similar to this provision), the terms and conditions of this Addendum shall control the contractual relationship between the parties and shall supersede any conflicting provisions found in any other contract or agreement. Contractor understands that acceptance of the terms and conditions contained in this Addendum is a condition precedent to entering into a contractual relationship with Gila County.

B. Contract Defined

As used in this Addendum, the term "Contract" shall refer to any written agreement between Gila County and a person, organization, corporation, company or other entity that provides supplies or services to Gila County regardless of the title or other name applied to that written agreement. The term includes by this reference all the terms and conditions of this Addendum.

C. Contractor Defined

As used in this Addendum, the term "Contractor" shall refer to a person, provider, organization, corporation, company or other entity providing supplies or services to Gila County pursuant to a written agreement regardless of the title or other name applied to "Contractor" in that written agreement.

D. Relationship to Parties

Contractor is an independent contractor of the County. Contractor represents that he has or will secure, at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this contract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. It is further agreed by Contractor that he shall obey all state and federal statutes, rules, and regulations which are applicable to provisions of the services called for herein. Neither Contractor nor any employee of the Contractor shall be deemed an officer, employee, or agent of the County.

E. Non-Appropriations Clause

Contractor acknowledges that the County is a governmental entity, and the contract validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this contract, then this contract shall automatically expire without penalty to County after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall only activate this non-appropriation provision as an emergency fiscal measure. The County shall not activate this non-appropriation provision for its convenience, to circumvent the requirements of this contract, or to enable the County to contract with another Contractor for the same supplies or services covered under this Addendum.

F. Hold Harmless/Indemnification Clause

Contractor shall indemnify, defend, save and hold harmless the County of Gila and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that the Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In

consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

G. Entire Contract Clause

The Contractor and the County have read this Contract and agree to be bound by all of its terms, and further agree that it constitutes the entire contract between the two parties and may only be modified by a written mutual contract signed by the parties. No oral provision in conflict with this Contract shall have any force or effect.

H. Non-Waiver of Enforceability

Failure of the County to enforce, at any time, any of the provisions of this Contract, or to request at any time performance by Contractor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the County to enforce each and every provision.

I. Governing Law

Both parties agree that this Contract shall be governed by the laws of the state of Arizona. The parties further agree that the jurisdiction for any legal disputes arising out of this Contract shall be the Superior Court of the State of Arizona. The parties agree that even if this Contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this Contract by this reference as though they were specifically listed herein.

J. Cancellation

Cancellation pursuant to A.R.S. §38-511. This contract is subject to the cancellation provisions of A.R.S. §38-511.

K. Anti-Terrorism Warranty

Pursuant to A.R.S. §35-397 the Contractor certifies that it does not have scrutinized business operations in Iran or Sudan and that they are in compliance with the Export Administration Act and not on the Excluded Parties List.

L. 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.

Daniel M. Ulibarri

Daniel M. Ulibarri, Ph.D./SPHR
President