

Request for Proposal Investment Manager Services

Pima County Community College District ("College" or "District") is seeking proposals from qualified firms for Investment Management Services.

The deadline for receipt of sealed proposals is: **March 22, 2011 at 3:00 PM (Arizona Time)**. Sealed proposals must be received by this deadline at the following location:

Pima County Community College District
District Finance Office-Purchasing
4905D East Broadway, Room D-113
Tucson, Arizona 85709-1420

Any proposal received after the date and time listed above will be returned and will not be considered.

Questions pertaining to this Request for Proposal (RFP) must be communicated in writing and be received via email by **February 28, 2011 at 3:00 PM (Arizona Time)**. Questions must be sent to the email address below and should include the specified Buyer's name and proposal number, and any question(s) should include a reference to the appropriate page and section number of the RFP. Questions and answers will be posted on the Pima Community College webpage listed below by **March 7, 2011 at 5:00 PM (Arizona Time)**:

Linda Ellis, Senior Buyer
DO-Staff-FO-Procur@pima.edu

Copies of the Request for Proposal, questions and answers, and any related documents are available on the Pima Community College Website: <http://www.pima.edu/admin/finance/purchasing/rfp.shtml>

Thomas E. Harrington, C.P.M.
Purchasing Director
Pima County Community College District
District Finance Office-Purchasing
4905 East Broadway, Room D-113
Tucson, Arizona 85709-1420

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Section 1

Project Summary

1. Request for Proposal Summary

Pima County Community College District ("College" or "District") is seeking proposals from qualified firms for Investment Manager Services in accordance with the Scope of Work specified in this Request for Proposal (RFP).

The Pima County Community College District is soliciting proposals for an Investment Manager for short-term fixed income management (zero to two years maturities), with the overall goals of preserving principal and maintaining liquidity while maximizing returns for the District's funds. Funds to be managed include certain Operating, Capital, Debt Service, and Other Funds of the District's General Fund. The District anticipates the selection of an Investment Manager (IM) to actively manage approximately \$80 million. The District seeks an IM who meets the above stated goals, maximizes yield, and achieves cash flow requirements. The original contract will be one year with three possible one year renewals.

Depending on the specific investment strategy, the benchmarks for performance comparison may be one or more of the following: the Salomon Brothers 6-month Treasury Bill, the Citigroup 6 month treasury bill index, the Citigroup 1 year treasury bill index, the Merrill Lynch 2 year treasury note index, or other more appropriate benchmarks. The goal of the Investment Manager is to maintain total performance returns equal to or greater than the specified benchmark for the specific strategy after returns have been adjusted for fees.

- 2. Entity Submitting RFP.** The terms "respondent", "vendor", "proposer", "offerer", "firm", "consultant", "company" or "contractor" used in this RFP or any subsequent documents or communications related to this RFP are interchangeable and mean the entity submitting a proposal and seeking to enter into a contract for the goods and/or services requested in this RFP.

3. Description of Pima County Community College District

Pima County Community College District, located in Tucson, Arizona, is one of the ten largest multi-campus, multi-site Community Colleges in the United States. The College is a two-year institution offering both occupational and traditional college courses, and awards many different degrees and certificates. The College's comprehensive curriculum includes credit courses, workforce development programs (Center for Training and Development), adult education special programs (GED), as well as corporate and community based non-credit instruction. Students attend classes at six major campuses including the Community Campus, which itself holds classes at over 70 locations in Southern Arizona. The College employs more than 1,400 regular employees, approximately 1,500 adjunct faculty and 500 part-time personnel. More than 70,000 students attend credit and non-credit classes annually. The population for the Tucson metro area is over 1 million people. The College is accredited by the Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools.

Section 2

Scope of Services

General Outline:

1. Scope of Services

The scope of services to be provided by the firm (the “Successful Respondent”) chosen to provide investment management services will be subject to a written agreement (the “Agreement”) between the District and the “Successful Respondent”.

The “Successful Respondent” will demonstrate extensive experience and superior capability for providing investment management services. The “Successful Respondent” will assist the District in the ongoing process of investment review and compliance and asset allocation decisions. Specifically, the “Successful Respondent” will assist the District with and/or provide:

- A. Strategic planning with respect to the asset allocation
- B. Performance monitoring and reporting
- C. Education of the Investment Committee with respect to investments, trends, market conditions and strategies
- D. Development of internal staff capabilities with respect to investments
- E. Access to all due diligence reports
- F. Management of the funds in accordance with District, State, and Federal guidelines
- G. Other investment management services as required by the District

The “Successful Respondent” will report directly to the Executive Vice Chancellor for Administration. The Executive Vice Chancellor for Administration is responsible for selecting an Investment Manager; overseeing the relationship between the District and its Investment Manager; and reviewing the Investment Manager’s performance on a regular basis. The firm will serve in a fiduciary capacity and will acknowledge in writing the firm’s fiduciary status, without qualification. In all cases, the investment manager and its staff will offer its advice to the District in conformity with the District’s policies.

2. Investment Objectives

The District’s investment portfolios shall be managed to accomplish the following hierarchy of objectives;

- A. **Preservation of Principal:** The single most important objective of the District’s investments is the preservation of the principal of those funds within each portfolio.
- B. **Maintenance of Liquidity:** The portfolio shall be managed in such a manner that assures that funds are available as needed to meet those immediate and/or future payment requirements of the District, including but not limited to payroll, accounts payable, capital projects, debt service and any other such payments so designated by the Executive Vice Chancellor for Administration.

- C. Maximize Return: The portfolio shall be managed in such a fashion as to maximize the return on investment, but within the context and parameters set forth by objectives "A" and "B" above.

3. Responsibilities of the Investment Manager

- A. Evaluate the District's monthly cash flow needs and recommend an investment strategy responsive to those needs.
- B. Invest the District's funds to the best advantage of the District, pursuant to the specific investment objectives of the portfolio and in compliance with the District's Investment guidelines.
- C. Report on investments under management to the District on a monthly basis. Provide supplemental reports and information as reasonably requested by the District.
- D. Provide performance reports on an ad hoc basis, particularly if there are any significant changes in market activity.
- E. Provide quarterly performance reports and be available for quarterly performance review meetings.
- F. Maintain accurate records of all investments and have such records available for periodic review and audit, if requested by the District.
- G. Serve as a general resource for the District regarding economic and market conditions as well as fixed income securities and investments.
- H. Report investment transactions on a monthly basis.

The initial term of the Agreement will be one (1) year from the date of its execution. The District may, at its sole option, amend the Agreement to add on an annual basis up to three (3) successive one (1) year terms ("Additional Terms") unless any shorter term (or terms) is specified in the Agreement

Section 3

Proposal Preparation and Submittal

Proposals must conform to all requirements stated below, and elsewhere in this RFP. Disregarding these requirements may result in disqualification of the proposal.

Before submitting a proposal, each firm shall familiarize itself with the entire RFP, including Scope of Work, contract form and all laws, regulations and other factors affecting contract performance. The firm shall be responsible for fully understanding the requirements of a subsequent contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the firm. There will be no subsequent financial adjustment for lack of such familiarization.

All proposal materials must be placed in a sealed package (envelope, box, etc.) clearly marked with the proposal name and number and the firm's name. It is the responsibility of the firm to ensure that proposals are received in the Office of the Purchasing Director by the due date and time stated on page 1 of this RFP. The firm is responsible for delivery of their proposal by the deadline notwithstanding any claims of error or failure to perform by a mail, courier or package delivery service. No proposals or proposal modifications may be submitted orally, electronically, or via telephone, facsimile, electronic mail (email) or telegraph.

All proposals must be typewritten on standard paper size (8½ x 11 inches) and shall be in the required format incorporating the forms provided in this RFP package, if any. It is permissible to copy these forms as required. The authorized person signing the proposal shall initial erasures, interlineations or other modifications on the proposal.

The firm's proposal should be organized in sections as outlined below:

1. Cover Letter

All proposals must include a cover letter submitted under the firm's name on the firm's letterhead containing the signature and title of a person or an official of the firm who is authorized to commit the firm to a potential contract with the College. The cover letter must also identify the primary contact for this proposal and include the College's RFP number found within this RFP. The cover letter should express the firm's interest and serve as an executive summary of the proposal. Claims of proprietary information must be included in the cover letter.

2. Proposal Form

All proposals must include the completed Proposal Form signed by a person or an official authorized to commit the firm to a contract with the District

3. Proposal Copies

The firm must submit one original copy of the proposal (clearly marked "Original") as well as two (2) additional hard copies (clearly marked "Copy"). One copy provided must be unbound and in a suitable format to allow photocopying. Applicants are also required to return responses on a CD. CDs should be clearly labeled with the name of your firm. The proposals, including all graphs and charts, with no exceptions, shall be presented in 8-1/2 in. x 11 in. format. Proposals shall include a table of contents listing all sections, figures, and tables and their corresponding page numbers.

4. Requirements

For a proposal to be considered, the Investment Management Firm is required to meet the following minimum qualifications:

- a. Investment Manager is required to be registered with the Securities and Exchange Commission (SEC) under the 1940 Investment Advisor's Act, unless otherwise exempted by law.
- b. Investment Manager is required to currently have at least \$250 million in institutional fixed income assets under management or fixed income assets currently under management amounting to ten (10) times the possible account assignment.
- c. Investment Manager is required to have 3-year performance track record that is in compliance with the CFA Institute performance presentation standards.
- d. Investment Manager is required to have errors and omissions insurance as outlined in Attachment D.
- e. Investment Manager must provide a written statement, signed by an Officer of the firm, attesting that they are willing and capable of providing investment management services in accordance with Federal, State, local and District guidelines and regulations. Attach the statement and label it Exhibit 2. The District retains the right to revise investment guidelines at any time or limit investment options therein due to then-current market and other conditions and will provide promptly any notification to investment manager(s) of such changes.
- f. Be fully enabled to reach a final agreement in terms approved by the District for a proposed contract.
- g. Proposals that fail to meet the above minimum qualifications will not be considered in the selection process.

5. Response to Scope of Work

Responses must be clear and thorough, but concise, and written in plain, easy to understand language. Responses must follow the numbering format used in the Scope of Work section.

6. Exceptions Requested

Any exceptions to the requirements of this RFP that the firm requests the College to consider must be placed in this section. Each alternate or exception should be addressed separately with specific reference to the requirement. If there are no proposed alternates or exceptions, a statement to that effect must be included in this section of the proposal. Any proposed terms and conditions, contracts, waivers, licenses or agreements required by the firm should be included here with a brief explanatory introduction.

7. PROPRIETARY INFORMATION

In the event any proposer shall include in the proposal any information deemed "proprietary" or "protected," such information shall be separately packaged from the balance of the proposal and clearly marked as to any proprietary claim. The College discourages the submission of such information and undertakes to provide no more than reasonable efforts to protect the proprietary

nature of such information. The College, as a public entity, cannot and does not warrant that proprietary information will not be disclosed. The College shall have the right to use any and all information included in the proposals submitted unless the information is expressly restricted by the proposer.

8. Cost Proposal

A detailed cost proposal must be provided and placed in a separate, sealed envelope, marked "Cost Proposal", clearly marked with the proposal number and the firm's name. If a Cost Proposal sheet is provided in the Appendix of this RFP, firms should complete it and use it as a guide to prepare their detailed cost proposal. One (1) copy of the Cost Proposal is required to be included with the original proposal. This information will not be considered during the initial stages of the evaluation process. Additional requirements are as follows:

- a. Prices shall be shown by item and individually extended, unless otherwise indicated. In case of a conflict between unit price and extension, unit price prevails.
- b. All applicable taxes are to be paid by the Proposer and included in the quoted price. The College is not exempt from paying State and local transaction privilege tax (sales tax).
 - i. Proposals that include equipment or materials **should not** include sales tax in the amount of your proposal, but **do show** tax percentage in the appropriate space.
 - ii. Proposals for services **must include** any applicable taxes as a separate itemized amount and also show tax percentage in the appropriate space.
- c. Provide detailed explanations of any assumptions that the proposer made in calculating the project costs in order to provide sufficient information for the College to be able to prepare a detailed cost analysis and comparison. Specify how proposer proposes that costs be billed to the College (e.g. actual expenses (time and materials), flat fee, capped, not-to-exceed, etc.) and when the proposer proposes to bill the College for the expenses (e.g. progress payments, milestone, weekly, monthly, etc.)
- d. Indicate if the proposal includes work in separate phases or sections. If so, provide separate sections identifying costs for each of the proposed phases and describe the proposed work that would be accomplished in each of the phases.
- e. Indicate if any items are optional and specify them in a separate section(s).

9. Appendix

The Proposal Appendix must include:

- a. All documents or forms required by the College to be completed by the firm including the required documents specified in the Appendix of this RFP.
- b. Details of any litigation your company or any of its subsidiaries or affiliates has had in the past five years relate to the performance of services provided by your firm.
- c. If a firm has had any previous contracts canceled or is currently debarred, suspended, or proposed for debarment by any government entity, the current status must be documented in this proposal. The firm agrees to notify the College of any change in this status. If any customer has stopped using the product(s) or service(s) you are proposing, provide details including customer name, date when product was installed, date when product was discontinued (usage) and reason for discontinuation, including contact details of the customer.
- d. If the firm intends to use any cooperative, subcontract, third party agreement, or the like to perform under their proposal, the firm must supply the name, address, qualifications and criteria used by the firm for selection of any third party, and the intended services to be performed. The services provided under the scope of work proposed, in part or in whole, shall not be subcontracted or assigned without prior written permission of the College, except that the



contractor may, without prior approval and without being released from any of its responsibilities hereunder, assign the contract to any affiliate or wholly-owned subsidiary of the contractor.

- e. Samples of any documentation or form that proposer will require the College to sign.

10. General

- a. **Cost of Proposal Preparation** – The College 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.
- b. **Certification** – By signature on the Proposal Form included herein, the consultant certifies that the submission of the proposal did not involve collusion or other anti-competitive practices. 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 proposal. In addition, consultant certifies whether or not an employee of the College has, or whose relative has, a substantial interest in any agreement subsequent to this document. Consultant also certifies their status with regard to debarment, or suspension by any governmental entity.

Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the submitted proposal and, if applicable, any resulting agreement. Signing the certification with a false statement shall void the proposal and, if applicable, any resulting agreement. Any resulting agreement may be subject to legal remedies provided by law. Consultant agrees to promote and offer to the College only those services and/or materials as stated in and allowed for under resulting agreement(s).

Section 4

Selection and Contract Award

Proposals shall be evaluated based on the requirements set forth in the RFP. Selection of the firm(s) will be at the discretion of the College and will be based on the proposal that the College deems to be the most responsive and responsible and serves the best interests of the College. It is the intent of the College to negotiate and enter into a contract with the selected firm following a Notice of Intent to Award.

Selected proposer(s) may be required to make on-site oral and visual presentations or demonstrations at the request of the College. The College will schedule the time and location for any presentations. Costs and equipment for such presentations are the responsibility of the proposer. Best and Final offers may be solicited from the pool of finalists prior to selection of the successful firm.

Agreements resulting from this RFP will be awarded to the firm whose proposal meets the requirements of the RFP and is the best qualified source, as established by the evaluation criteria listed below. Additional criteria may later be used to determine the successful firms. These criteria are listed in no particular order of priority. In all instances the District will use its judgment in determining which applicant best serves the interest of the District:

1. Understanding of the RFP's purpose and ability to deliver the requested services;
2. Past Investment Performance;
3. Competitive pricing structure;
4. Objectivity of investment advice;
5. Experience and Qualifications of the Firm;
6. Experience and Qualifications of Proposed Staff, research capabilities and processes;
7. Educational and strategic planning capabilities;
8. Investment Management Process;
9. Investment manager due diligence & selection capabilities;
10. Client and industry feedback; and
11. Compliance with District standards for contracting (e.g. indemnification, nondiscrimination, etc.)

Section 5

RFP Completion Checklist

This checklist is a summary of some of the required components of the RFP. It is provided as a convenience to contractors, but is not intended to be all-inclusive or to imply acceptance or evidence of compliance by its use. It is the responsibility of the contractor to submit complete and compliant proposals.

- ÿ **Cover Letter**
- ÿ **Proposal Form**
- ÿ **Qualifications**
- ÿ **Response to Scope of Service**
- ÿ **Exceptions Requested**
- ÿ **Cost Proposal (Fees & reimbursable Expense Schedule)**
- ÿ **Appendix**
- ÿ **Exhibits 1 - 16**

Section 6 Proposal Form

Date _____

Proposal of _____,
(Name)

a corporation organized and existing under the laws of the State of _____; a
partnership consisting of _____; an individual trading as
_____.
(Name)

Request for Proposal: _____
[provide title or brief description]

To: Pima County Community College District ("College")

1. In compliance with your Request for Proposal No. _____, the undersigned hereby offers to furnish the services designated in the RFP, in strict accordance with the RFP, upon written notice of acceptance of this Proposal at any time within thirty (30) days after the date of opening of the Proposals, and to execute the Contract in accordance with the Proposal as accepted within five (5) days after the Contract is presented for signature.

2. The undersigned Proposer hereby acknowledges receipt of the following Addenda, if any:

Addendum No.	Date
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. The undersigned Proposer understands that the College reserves the right to reject any or all Proposals or to waive any formality or technicality, as determined by the College in its sole discretion, in any Proposal in the interest of the College.

4. The undersigned Proposer hereby certifies and affirms that this Proposal is genuine and not a sham or collusive, nor made in the interest or behalf of any person not herein named, and that the undersigned Proposer has not directly or indirectly induced or solicited any other Proposer to put in a sham bid, or any other person, firm, or corporation to refrain from bidding, and that the Proposer has not in any manner sought by collusion to secure for itself an advantage over any other Proposer.

5. The undersigned certifies that to the best of his/her knowledge: **(check only one)**

() There is no officer or employee of Pima Community College who has, or would have, or whose relative has, or would have, a substantial interest in any contract resulting from this request.

() The names of any and all public officers or employees of Pima Community College who have, or would have, or whose relative has, or would have, a substantial interest in any contract resulting from this request, and the nature of the substantial interest, are included below or as an attachment to this Proposal.

6. The Proposer certifies, to the best of its knowledge and belief, that:

(i) The Proposer and/or any of its Principals or Owners:

(A) (check one) **are ()** or **are not ()** presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any governmental agency.

(B) (check one) **have ()** or **have not ()**, within a three year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) contract or subcontract; violation of federal or state antitrust statutes, rules or regulations relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion; or receiving stolen property; and

(C) (check one) **are ()** or **are not ()** presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any other of the offenses enumerated in paragraph (i)(B) of this provision.

(ii) The Proposer (check one) **has ()** or **has not ()**, within a three year period preceding this offer, had one or more contracts terminated for default by any governmental agency.

"Principals," for the purposes of this Proposal, means officers, directors, owners, partners and persons having primary or substantial management or supervisory responsibilities within a business entity.

7. The certifications in paragraphs 4, 5 and 6 of this Proposal are material representations of fact upon which reliance will be placed when making an award. If it is later determined that the Proposer knowingly rendered an erroneous certification, in addition to other remedies available to the College, the College may terminate the contract resulting from this solicitation for default.

SEAL - If Bidder is a
Corporation

(Official Name of Firm)

(Signature)

(Print Name)

(Title)

(Complete Business Address)

(Email Address)

(Federal Taxpayer ID Number)

Section 7

AGREEMENT

AGREEMENT BETWEEN PIMA COUNTY COMMUNITY COLLEGE DISTRICT

AND

This Agreement made and entered into on the ____ day of _____, 20____, by and between Pima County Community College District hereinafter referred to as "District" or "College" and _____ hereafter referred to as the "Consultant."

The District and the Consultant agree as follows:

FIRST: The Consultant agrees to perform the professional, technical and/or management services hereinafter set forth when, and as assigned by the District, and

SECOND: The District agrees to pay the consultant a fee, together with such other payments and reimbursements as are hereinafter provided.

ARTICLE 1: CONSULTANT'S SERVICES

The Consultant agrees to provide professional services and consultation to assist the District in _____ as outlined in the scope of work covered in Attachment A of this Agreement which is hereby referenced and incorporated as an integral part of this Agreement. All work performed under the Agreement must have prior approval of the District.

ARTICLE 2: FEE STRUCTURE

The fee structure for the work conducted under this Agreement will be in accordance with Attachment B of this Agreement which is hereby referenced and incorporated as an integral part of this Agreement.

ARTICLE 3: METHOD OF PAYMENT

Payments to the Consultant will be made monthly upon the presentation and approval of the Consultant's invoice. Each such invoice shall be documented in such detail and demonstrate such progress on each portion of the work as the District may reasonably require.

ARTICLE 4: INDEMNIFICATION

To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless the District, its agents, representatives, officers, directors, officials and employees, from and against all claims, damages, losses and expenses (including, but not limited to, attorneys' fees, court costs and the cost of appellate proceedings) relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Consultant, its employees, agents or any tier of subcontractors in the performance of the Agreement. Consultant's duty to defend, hold harmless and indemnify the District, its agents, representatives, officers, directors, officials and employees, shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment or destruction of property, including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of the

Agreement, including any employee of the Consultant or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Consultant be legally liable.

ARTICLE 5: EMPLOYEE RELATIONSHIP

The Consultant is an independent contractor and is not an employee, partner, legal representative, joint venturer or agent of the District. The District is not an employee, partner, legal representative, joint venturer or agent of the Consultant.

ARTICLE 6: CANCELLATION

This Agreement may be cancelled at any time, with or without cause, by the District giving seven (7) days written notice to the Consultant. In the event of such cancellation, the Consultant shall be paid for authorized services provided prior to the effective date of termination. In ascertaining the services actually rendered hereunder up to the date of the termination of this Agreement, consideration shall be given to both completed work and work in process of completion and to complete and incomplete reports and other documents whether delivered to the District or in the possession of the Consultant.

ARTICLE 7: OWNERSHIP OF DRAWINGS OR REPORTS

Services as represented on drawings, reports, memoranda, notes and drafts are the property of the District whether the work is completed or not and may be used by them in any fashion they see fit. Notwithstanding the foregoing, however, the Consultant reserves the right to use any studies, analyses or data prepared or collected during the course of this work for other purposes as seen fit, provided, however, that no such use shall allow the District to be identified without the consent of the District.

ARTICLE 8: PERSONAL SERVICES

It is agreed that the District is relying on the personal services of the Consultant and upon their technical ability and professional integrity. Such reliance is one of the chief considerations for the execution of this Agreement by the District. It is further understood and agreed that the Consultant shall not assign, sublet nor transfer his duties under this Agreement, nor shall this Agreement be assignable or transferable by operation of law or otherwise without the written consent of the District.

ARTICLE 9: CONFLICT OF INTEREST

The Consultant agrees to perform services exclusively for the District under this agreement, and expressly agrees not to undertake any conflicting duties to others, with or without compensation, which could in any way compromise that responsibility. The Consultant shall not disclose to others any confidential information gained from this relationship without the prior, written permission from the District, and the Consultant shall not seek to use their position, the information gained thereby, nor any other aspect of the project or relationship with others involved in it, for personal gain or other remuneration or benefit, beyond the compensation provided for herein.

ARTICLE 10: TERM OF AGREEMENT

The initial term of the contract shall be from _____ 20__ through _____. Extensions of the contract may be effected by an amendment to this Agreement approved by both parties.

ARTICLE 11: GOVERNING LAW

This Agreement is made in the State of Arizona and shall be subject to and governed by the laws of the State of Arizona. All questions concerning the validity, construction and administration of the Agreement shall be determined under Arizona law.

ARTICLE 12: SEVERABILITY

This Agreement shall be severable and to the extent that any part of the Agreement is unenforceable for any reason whatsoever, the remaining parts of this Agreement shall remain in full force and effect.

ARTICLE 13: NOTICES

All notices to either party shall be deemed to have been provided by depositing the same, postage pre-paid, with the United States Postal Service, addressed as follows:

District Representative:

Consultant Representative:

ARTICLE 14: ARBITRATION

If the parties are unable to resolve any disputes arising under the Agreement, those disputes shall be resolved through arbitration in accordance with A.R.S. ' 12-1501, et. seq.

ARTICLE 15: NON-DISCRIMINATION

The parties agree to comply with Arizona law prohibiting discrimination in employment by government contractors, to the extent applicable with this Agreement, along with other applicable non-discrimination laws and regulations.

ARTICLE 16: LACK OF SUFFICIENT FUNDING

This Agreement may be cancelled without any further obligation on the part of the College in the event that sufficient appropriated funding is unavailable to assure full performance of the Agreement terms. Consultant shall be notified in writing of any such non-appropriation at the earliest opportunity.

ARTICLE 17: INSURANCE

Consultant shall furnish insurance as required by Attachment D hereto, which is incorporated herein by this reference as though fully set forth herein.

ARTICLE 18. ADDITIONAL TERMS AND CONDITIONS

The parties shall comply with the Terms and Conditions attached hereto as Attachment E, which are incorporated herein by this reference as though fully set forth herein.

IN WITNESS WHEREOF, the Parties to this agreement have hereunto caused the same to be executed at Tucson, Arizona the day and year first above written.

Pima County Community College District:

Consultant:

By: _____

By: _____

Title: _____

Title: _____

ATTACHMENT A

Proposal Requirements

This Section outlines the information that is to be included in your proposal. The information requested must be provided in the prescribed numbered format. All questions must be repeated in their entirety before each of the answers is provided. Responses that deviate materially from the prescribed format may lead to the rejection of the proposal. Please be as clear, accurate, and complete as possible in your responses. Providing incomplete or misleading data may lead to disqualification of the proposal and elimination of the firm from the search process.

A. The Firm

1. Please provide the following contact information:

- a. Firm Name:
- b. Primary Contact Name:
- c. Contact Title:
- d. Contact Address:
- e. Contact E-mail Address:
- f. Contact Phone Number:
- g. Contact Facsimile Number:
- h. Firm's Internet (www) Address:

2. Please provide the following background information:

- a. An overview of the firm, including its history, year founded, and location of headquarters and branch offices;
- b. A description of the ownership structure of the firm, which includes the parent company and any affiliated companies, joint ventures, and strategic alliances. If any near-term changes to the firm's corporate or organizational structure are anticipated, please also note them;
- c. A list of the majority owners of the firm (from largest to smallest with respect to ownership) and their ownership percentages. Please include individuals and all other entities; and
- d. A description of the firm's organizational structure, including all operating divisions and functional areas, and the number of employees within each area.

3. Please describe the firm's competitive advantage and why it should be selected.

4. Comment on the firm's experience, number of years in the investment management business for the public sector, and any special expertise or experience that would be relevant to the District.

5. Please list all services provided by the firm and the nature thereof for public sector clients. Indicate the amount of assets under management for each product as of December 31, 2008. Please also list the percentage of total income that such services represent.

6. Provide a chart indicating the composition of the firm's public sector fixed income client base. Segregate the chart by Public-Non Pension and Pension. If the firm's current client base is heavily weighted to any particular type of investor, please identify this type and explain your reasoning for such emphasis. Attach the chart and label it Exhibit 3.

7. Is the firm, parent or affiliate a broker/dealer and does it trade for client accounts through this broker/dealer?
8. Describe how your firm discloses all types of fees. In addition, confirm that the firm does not accept "soft dollars" as a method of payment.
9. Within the last ten years, has your organization, any employees, officers, or principals been involved in any business litigation or other legal proceedings relating to your advisor activities? In addition, has your organization ever been investigated by a federal or state licensing or regulatory authority? If so, provide an explanation and indicate the disposition.
10. Would the firm be willing to disclose, annually or upon client request, the dollar amount and nature of all material beneficial relationships, that the firm or any affiliate of the firm, engages in with investment manager clients? If not, please explain.
11. Describe your firm's relationship with your other clients' master custodians, actuaries, and other advisors.
12. Describe the firm's conflict of interest policy. Include an explanation of how this policy, and any other measures taken by the firm, limits the likelihood that the client could receive investment advice that is not completely objective. Attach the conflict of interest policy to this RFP as Exhibit 4.
13. Explain in detail any potential conflicts of interest that would be created if your firm is selected. Please include any activities of affiliated or parent organizations as well as other client relationships that may affect services to the District.
14. Is your organization a person, firm, or corporation registered as an investment advisor, under the SEC 1940 Investment Advisors Act?

B. The Team

15. Provide a breakdown of your public sector fixed-income staff in the following categories:

- Portfolio Managers
- Administration Economists
- Marketing/Client Service
- Research
- Other Professionals
- Other Staff

If multiple responsibilities occur between categories, approximate the time spent in each area.

16. Provide an organizational chart of the public sector fixed-income group. Attach the chart and label it Exhibit 5.
17. Please identify the individual(s) who would perform the requested services for the District. Please be sure to identify the back-up personnel (in instances when the proposed lead is unavailable). For each person, please also provide a biography as well as the following information:

Name:

Title:
Expected role:
Tenure at the firm:
Total years of institutional investment experience:
Total years of public sector account experience:
Total current number of assigned accounts:

18. Please explain how the team dedicated to the District's account would function.

19. Please describe the team's ability to educate District staff and officials on investment matters. Indicate if the team has experience conducting informative presentations/workshops for audiences with varying degrees of expertise in investment strategies/practices.

C. Assets Under Management

20. Describe the distribution of short-term (less than one-year) and other fixed-income public operating and total firm client assets (millions of dollars) by number of clients. Include this information in the form of a chart as follows: In addition, list the median size of the accounts in each category.

	\$0.00-\$100M	\$100-250M	\$250M-\$500M	\$500M+
Public Accounts				
Short Term Public Funds				
Other Public Funds				
Total				
Total Accounts				
Total Short Term				
Total Other				
Total				

21. Include the information listed below for each. *If your firm requires advance notice of the District's intention to make inquiries, please indicate.*

Name of Client:
Telephone Number:
Client Type:
Length of Relationship:
Assets Under Advisement (\$MM):
Non-discretionary/Discretionary:
Investment Focus:

22. For the years 2007, 2008, 2009 & 2010, please identify the number of investment management accounts lost, the size of each such account and the reason(s) for such loss.

23. For the same time period, please list the number of public sector clients gained and lost.

D. Planning and Execution

24. Describe how the firm would approach planning and implementing an investment program for the District. What are the steps the firm would take to execute this plan? What unique client factors would the firm consider?

25. What experience does the firm have planning and implementing investment programs for public sector clients? Please list specific client engagements.

26. Please describe the firm's approach to the investment selection/due diligence process. What are the most important criteria? Who is involved in the decision-making process?

E. Monitoring and Reporting

27. Please describe how the firm monitors a client's investments. What criteria are evaluated? How frequently are current client investments reviewed? How is compliance ensured?

28. Please describe the capabilities and differentiating features of the firm's investment reporting system. Is the database(s) proprietary or purchased? How is data input and verified? At what levels is the information available (i.e. total portfolio, asset class, fund, individual fund)? What ability to customize reporting exists? Can clients access information on-line?

29. Outline your process for monitoring and reporting on market trends. Include in your response two research reports generated by your firm. Attach the reports and label them Exhibit 6.

30. Provide one sample each of the following reports that must be presented to the District if your firm is selected. Attach the reports and label them Exhibit 7.:

- a. *Monthly Reports* to be received no later than the third week following month-end. Include holdings and transaction summaries, total return performance summaries, and a manager-to-custodian bank statement reconciliation report.
- b. *Quarterly Reports* to be received no later than the third week following quarter-end. Include holdings and transaction summaries, total return performance, market and portfolio performance commentary, and a capital gain and loss schedule.
- c. *Other* relevant publications or reports the District would receive.

31. Describe your firm's ability to offer sub-accounting for various District accounts including posting of income, and various factors used to determine income.

32. Describe the extent to which the Internet is used to transmit reports, initiate transactions, or act as a data repository.

F. Investment Process

33. Please provide a description of your investment philosophy, strategy, and process for public sector clients' operating funds and bond proceeds investments. How long has this process been in use? Additionally, given the current market conditions, please indicate if the firm's investment strategy would include investments in corporate and asset backed bonds. If your proposed strategy for the District includes these types of securities, describe how you propose to limit the District's risk exposure and maintain liquidity needed for cash flow purposes.

34. Describe the firm's internal policies, limitations, constraints, and utilization on the use of derivatives.
35. Explain types of derivatives used by your firm since January 1, 2007 and the reason for their inclusion in a portfolio.
36. Discuss risk (e.g., financial instrument risk, credit/counter party risk, liquidity risk, interest rate risk) as it relates to the firm's short-term and medium-term investment portfolios. State how portfolios are monitored.
37. Describe the firm's/team's decision making process:
- a. How are policies and guidelines implemented?
 - b. What guidelines are followed?
 - c. How is the portfolio manager supervised?
 - d. How do your managers/analyst decide to buy and sell a security?
 - e. How do you obtain client input?
38. Detail your firm's general approach to investment strategies for tax-exempt clients.
39. Under what market conditions would you utilize a bullet, barbell, or ladder strategy in a portfolio that is required to generate monthly cash balances?
40. Describe your firm's research capabilities, including reliance on external and internal sources and models.
41. With regard to the proposed portfolio management strategy, rank in importance each of the following with respect to the firm's ability to add value to a client's fixed income portfolio. Describe briefly your reasoning for your breakdown.
- a. Duration/maturity decision ____%
 - b. Yield curve analysis ____%
 - c. Sector selections ____%
 - d. Issue Selection ____%
 - e. Other ____%

Total 100%

42. Describe how and on what frequency you can calculate income.

G. Investment Performance

43. Provide examples of benchmarks typically employed for public sector clients as well as a detailed description of the peer universe to which a client such as the District would be compared.
44. Please provide investment performance history for your short-term and other public sector operating and bond funds for one, three, and five years ending 12/31/10. Use the CFA Institute performance presentation standards or, if providing performance calculated by different standards, indicate explicitly how the calculations differ.

45. State whether the performance returns are independently audited or verified. Include the frequency and name of the auditor.
46. Submit a letter from your independent certified auditor or a third party vendor attesting the performance returns, if applicable. Attach the letter and label it Exhibit 8.

H. Controls and Compliance

47. Please describe the controls your firm has established to insure compliance with client guidelines and objectives and to deter improper actions.
48. State whether the firm's team monitors transactions electronically. If yes, state whether the firm's system is tailored to monitor the District's specific investment guidelines and cash flow requirements. If the transactions are not monitored electronically, please explain how they are monitored.
49. Describe the internal and external (custodial) monthly accounting audit and statement reconciliation process. Note the number of staff involved and their respective duties.
50. Describe the types of coverage for fidelity bonds, errors and omissions insurance, and any other fiduciary or professional liability insurance your firm has. Please list the insurance provider(s).
51. Does your firm provide Service Organization Control Reports?

ATTACHMENT B

Fees and Reimbursable Expense Schedule

State your firm's proposed fee structure for investment management services. The actual fee paid by the District will not exceed the amount proposed in your response:

1. State whether the preceding fee structure applies to multiple accounts. If not, please describe your asset-based fee structure for multiple accounts:
2. Will the firm confirm that it will not propose increases in the proposed fee structure for this year and the next four years?
3. Do the fees include custodial services?

ATTACHMENT C

Additional Materials and Information

In addition to Exhibits 1 through 8 requested previously in this RFP, please include the following documents. All documents must be labeled as follows:

Exhibit 9: A corporate Organization Chart (showing the investment management firm, and all affiliates and subsidiaries). Include and label as Exhibit 9.

Exhibit 10: A current company Annual Report including the financial condition of the firm and the most recent Audited Financial Statements. Include and label as Exhibit 10.

Exhibit 11: A copy of the firm's Mission Statement and Code of Ethics. Include and label as Exhibit 11.

Exhibit 12: Most recently filed Form ADV, Parts I and II. Include and label as Exhibit 12.

Exhibit 13: Examples of educational materials. Include and label as Exhibit 13.

Exhibit 14: Three (3) existing client references (whose investment size and focus is similar to that of the District) for clients that we may contact. Include and label as Exhibit 14.

Exhibit 15: Any other information you feel would be necessary to gain a complete understanding of the firm or the services it provides. Include and label as Exhibit 15.

Exhibit 16: A copy of the firm's proposed contract. Include and label as Exhibit 16.

Attachment D

INSURANCE

1. Insurance Requirements

The Consultant, at Consultant's own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed to do business in the State of Arizona with policies and forms satisfactory to the College and possessing a current A.M. Best, Inc. Rating of B++6.

All insurance required herein shall be maintained in full force and effect until all work required to be performed under the terms of the agreement is satisfactorily completed and formally accepted; failure to do so may, at the sole direction of the College, constitute a material breach of the agreement.

The Consultant's insurance shall be primary insurance, and any insurance or self-insurance maintained by the College shall not contribute to it.

Any failure to comply with the claim reporting provisions of the policies or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the College.

All policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the College, its agents, representatives, directors, officers, and employees for any claims arising out of the Consultant's work or service.

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the College under such policies. The Consultant shall be solely responsible for deductible and/or self-insured retention and the College, at its option, may require the Consultant to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The College reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The College shall not be obligated, however, to review same or to advise Consultant of any deficiencies in such policies and endorsements, and such receipt shall not relieve Consultant from, or be deemed a waiver of the College's right to insist on, strict fulfillment of Consultant's obligations under the agreement.

The insurance policies, except Workers' Compensation & Professional Liability, required by the agreement shall name the College, its agents, representatives, officers, directors, officials, and employees as Additional Insureds.

REQUIRED COVERAGE**General Liability**

Consultant shall maintain Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence with a \$2,000,000 Products and Completed Operations Aggregate and \$2,000,000 General Aggregate Limit. Policies shall include coverage for bodily injury, broad form property damage, personal injury, products/completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of the agreement, which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 000211093 or any replacement thereof. The coverage shall not exclude X, C, U.

Such policies shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision that would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc's, Additional Insured, Form B CG20101185, and shall include coverage for Consultant's operations and products and completed operations.

CERTIFICATES OF INSURANCE

Prior to commencing Services under the agreement, Consultant shall furnish the College with Certificates of Insurance, or formal endorsements as required by the agreement, issued by Consultant's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by the agreement are in full force and effect.

In the event any insurance policy(ies) required by the agreement is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Consultant's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the agreement, a renewal certificate must be sent to the College thirty (30) days prior to the expiration date.

All Certificates of Insurance required by the agreement shall be identified with a bid serial number and title.

CANCELLATION AND EXPIRATION NOTICE

Insurance evidenced by these certificates shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the College.



Automobile Liability

Consultant shall maintain and cause any subcontractors to maintain Commercial/Business Automotive Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Consultant's owned, hired, and non-owned vehicles assigned to or used in performance of the Consultant's work. Coverage will be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards. If hazardous substances, materials or wastes are to be transported, MCS 90 endorsement shall be included and \$5,000,000 per accident limits for bodily injury and property damage shall apply.

Professional Liability

Professional liability insurance with minimum limits of \$1,000,000 per occurrence and requiring notice to the College at least thirty (30) days prior to cancellation or restriction of coverage. Coverage shall be afforded on a form acceptable to the College. Consultant shall maintain such professional liability insurance until at least three (3) years after completion of all services required under this agreement.

Workers' Compensation

This Consultant shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant's employees engaged in the performance of the work; and, Employer's Liability insurance of not less than \$2,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the Consultant will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of the Consultant.

Attachment E

Terms and Conditions

1. **Legal Remedies** – All claims and controversies shall be subject to the Pima County Community College Policy regarding Formal Protests and Appeals
2. **Agreement** –The Agreement shall contain the entire agreement between the College and the Consultant relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders or master agreement in any form.
3. **Agreement Amendments** – The Agreement shall be modified only by a written amendment signed by persons duly authorized to enter into agreements on behalf of the College and the Consultant.
4. **Provisions Required by Law** – Each and every provision of law and any clause required by law to be in the Agreement 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 Agreement shall forthwith be physically amended to make such insertion or correction.
5. **Severability** – The provisions of the Agreement are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
6. **Records** – Pursuant to provisions of title 35, chapter 1, article 6 A.R.S. §35-215 the Consultant shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Agreement. All such documents shall be subject to inspection and audit at reasonable times. Upon request, a legible copy of any or all such documents shall be produced at the offices of the Auditor General, the Attorney General or the College Purchasing Office.
7. **Advertising** – Contractor shall not advertise or publish information concerning the Agreement, without prior written consent of the College.
8. **Preparation of Specifications by Persons Other than College Personnel** – All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the College's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.
9. **Americans With Disabilities Act** – The Consultant shall comply with all applicable provisions of the Americans With Disabilities Act and applicable federal regulations under the act.
10. **Conflict of Interest** – The College may, within three years after its execution, cancel the agreement without penalty or further obligation if any person significantly involved in negotiating, drafting, securing or obtaining the agreement for or on behalf of the College becomes an employee of or a consultant in any capacity to any other party to the agreement with reference to

the subject matter of the Agreement while the Agreement or any extension thereof is in effect or as otherwise provided by A.R.S. § 38-511..

- 11. Drug Free Workplace** – The Consultant agrees that in the performance of the Agreement, neither the Consultant nor any employee of the Consultant shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered in the Agreement. The College reserves the right to request a copy of the Consultant Drug Free Workplace Policy. The Consultant further agrees to insert a provision similar to this statement in all subcontracts for services required.
- 12. Equal Opportunity** – The provisions of Section 202 of Executive Order 11246.41 C.F.R. Sec. -0-1.4.41 Sec. 60-250.4 and 41 C.F.R. Sec. 60-741.4 are incorporated herein by reference and shall be applicable to the Agreement unless the Agreement is exempted under the rules, regulations or orders of the U.S. Secretary of Labor.
- 13. Federal, State and Local Taxes, Licenses and Permits** – Consultant is solely responsible for complying with all laws, ordinances, and regulations on taxes, registrations, licenses and permits, as they may apply to any matter under this document. The Consultant must demonstrate that they are duly licensed by whatever regulatory body may so require during the performance of the Agreement. Prior to the commencement of Agreement, the Consultant shall be prepared to provide evidence of such licensing as may be requested by the College. Consultant shall, at no expense to the College, procure and keep in force during the entire period of the Agreement all such permits and licenses.
- 14. Gratuities** – The College may, by written notice to the Consultant, cancel the agreement if it is found by the College that gratuities, in the form of entertainment, gifts or otherwise were offered or given by the Consultant or any agent or representative of the contractor, to any officer or employee of the College with a view toward securing an agreement or securing favorable treatment with respect to the performing of such agreement.
- 15. Liens** – Each Consultant shall keep the College free and clear from all liens asserted by any person or entity for any reason arising out of the furnishing of services or materials by or to the Consultant.
- 16. Sales and Use Tax** – The College is not exempt from state sales and use tax.
- 17. Sexual Harassment** – Federal law and the policies of the College prohibit sexual harassment of College employees or students. Sexual harassment includes any unwelcome sexual advance toward a College employee or student, any request to a sexual favor from a College employee or student, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive working environment for College students. Consultant, subcontractors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of College employees and students. The employer of any person whom the College, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of the Agreement to cause such person to be removed from the project site and from College premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

- 18. Smoking** – All facilities of the College are smoke free. Smoking is not permitted inside College buildings or within 25 feet of doorways and air intakes. The Consultant is required to comply with this smoke free policy.
- 19. Confidentiality** – The parties shall comply with 20 USC Section 1232(g), the Buckley Amendment to the Family Educational Right and Privacy Act of 1974. Therefore, Contractor shall not be entitled to receive Employee or Student information directly from the College, other than public information available in any College directory which is not protected by federal or state privacy or confidentiality statutes or regulations. Contractor may solicit Employee and Student information directly from Employees and Students subject to prior disclosures by Contractor of all intended uses of such information. Regardless of the Employee or Student personal information, even if such information is publicly available via directories, Contractor shall under no circumstances sell, duplicate, market, or give to any person or persons, entities or other companies a list or other personal information of any or all Employees or Students. All Employee and Student identities and personal information shall remain confidential. Disclosure by Contractor occurring without the express prior written consent of the Employee or Student shall result in the immediate termination of this agreement.
- 20. Assignment-Delegation** – No right or interest in the Agreement shall be assigned or delegated by Consultant without the prior written permission of the College. Any attempted assignment or delegation by Consultant shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
- 21. Force Majeure** – Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing under the Agreement if such delay or default is caused by conditions beyond its reasonable control including, but not limited to wars, insurrections, fires, floods, governmental restrictions and/or any other cause beyond the reasonable control of the party whose performance is affected.
- 22. Intellectual Property Rights** – It is understood and agreed that ownership of intellectual property developed as a result of fulfilling the requirements of this Agreement belongs solely and exclusively to the College. Documents provided in connection with the Agreement belong to the College and are being used with permission. Intellectual property, as used herein, means all forms of legally protectable intellectual property, including copyrights, trademarks, inventions, patent applications, patents and mask works, drawings and/or blueprints. It is also understood and agreed that any intellectual property created as a result of Consultant's performance of this Agreement is considered a work for hire under the U.S. copyright laws and as such, the College will own the copyright.
- 23. Laws and Regulations** – Consultants are solely responsible for keeping themselves fully informed of and faithfully observing all laws, ordinances, and regulations affecting the rights of their employees, and shall protect and indemnify the College, its officers and agents against any claims of liability arising from or based on any violation thereof.
- 24. Payment Terms** – Payments by the College shall be subject to the provision of Title 35 of Arizona Revised Statutes, relating to time and manner of submission of claims. The College's obligation is payable only and solely from funds appropriated for the purpose of the Agreement. Unless otherwise stated herein, the payment terms for the Agreement are Net 30 days.

- 25. Price Adjustment** – Price changes will normally only be considered at the end of one Agreement period and the beginning of another. Price change requests shall be in writing, submitted at least sixty (60) days prior to the end of the current Agreement period, and shall be supported by written evidence of increased costs to the Consultant. The College will not approve unsupported price increases that will merely increase the gross profitability of Consultant at the expense of the College. Price change requests shall be a factor in the Agreement extension review process. The College shall, in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of the College.
- 26. Prior Course of Dealings** – No trade usage, prior course of dealing, or course of performance under other agreements shall be a part of this Agreement resulting from this RFP, nor shall such trade usage, prior course of dealing or course of performance be used in the interpretation or construction of such resulting agreement.
- 27. Right to Offset** – The College shall be entitled to offset against any sums due the Consultant, any expenses or costs incurred by the College, or damages assessed by the College concerning the Consultant's non-conforming performance or failure to perform the Agreement, or any other debt owing the College.
- 28. Insolvency** – The College shall have the right to terminate the Agreement at any time in the event Consultant files a petition in bankruptcy; or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Consultant and not discharged within thirty (30) days; or if Consultant becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for Consultant or its business.
- 29. Lack of Funding** – The Agreement may be canceled without further obligation on the part of the College in the event that sufficient appropriated funding is unavailable to assure full performance of the terms. The Consultant shall be notified in writing of such non-appropriation as soon as reasonably possible. No penalty shall accrue to the College in the event this cancellation provision is exercised. This cancellation provision shall not be construed so as to permit the College to terminate the Agreement in order to acquire similar equipment, material, supplies or services from another party.
- 30. Stop Work Order** – The College may at any time, by written order to the Consultant, require the Consultant to stop all or any part of the work called for by the Agreement for a period of up to ninety (90) days after the order is delivered to the Consultant, and for any further period to which the parties may agree. The order shall be specifically identified as the Stop Work Order issued under this provision. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incidence of costs allocable to the work covered by the order during the period of work stoppage. If a Stop Work Order issued under this provision is canceled or the period of the order or any extension expires, the Consultant shall resume work. The College shall make an equitable adjustment in the delivery schedule or Agreement price, or both, and the Agreement shall be amended in writing accordingly.
- 31. Suspension or Debarment** – The College may by written notice to the Consultant immediately terminate the Agreement if the College determines that the Consultant has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor or Contractor of any public procurement unit or other governmental body.

- 32. Continuation of Performance Through Termination** – The Consultant shall continue to perform, in accordance with the requirements of Agreement, up to the date of termination, as directed in the termination notice.
- 33. Sudan, or Iran Scrutinized Business** – Pursuant to A.R.S. #35-391.06(A) AND 35-393.06(B), Contractor certifies that it does not have a “scrutinized” business operation in either Sudan or Iran, as that term is defined in A.R.S. #35-391(15) AND 35-393(12) respectively.
- 34. Federal Immigration Laws and Regulations** – Consultant warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(a) and that it requires the same compliance of all subcontractors under the agreement. Consultant acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of the agreement subject to penalties up to and including termination of the agreement. The College retains the legal right to audit the records of the Consultant and inspect the papers of any employee who works for the Consultant to ensure compliance with this warranty and the Consultant shall assist in any such audit. The Consultant shall include the requirements of this paragraph in each contract with subcontractors under the agreement.

If the Consultant or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), The Consultant or subcontractor shall be deemed to be in compliance with this provision. The College may request proof of such compliance at any time during the term of the Agreement by the Consultant and any subcontractor.

35. Extended Contract

The College is an active member of the Strategic Alliance for Volume Expenditures (S.AV.E.) Cooperative agreement. Under this Cooperative Purchasing Agreement, and with the concurrence of the successful Proposer, other members of this organization may access any subsequent agreement/contract resulting from this solicitation. If the Proposer does not want to grant such access, it must be stated in their Proposal. In the absence of a statement to the contrary, the College will assume that access is granted by the Proposer to any subsequent agreement/contract.