

SERIAL 01113 SC DUST STABILIZATION, USING CHEMICAL METHODS

DATE OF LAST REVISION: August 12, 2005 CONTRACT END DATE: November 30, 2006

NOVEMBER 30, 2006
~~NOVEMBER 30, 2004~~
CONTRACT PERIOD THROUGH NOVEMBER 30, 2006

TO: All Departments
FROM: Department of Materials Management
SUBJECT: Contract for **DUST STABILIZATION, USING CHEMICAL METHODS**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **NOVEMBER 19, 2001**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

CH/ks
Attach

Copy to: Clerk of the Board
Steve Varscsak, FMD
Kathy Sicard, Materials Management

(Please remove Serial 00005-RFP from your contract notebooks)

SPECIFICATIONS ON INVITATION FOR BIDS FOR: **DUST STABILIZATION, USING CHEMICAL METHODS**1.0 **INTENT:**

This Invitation For Bids shall be to procure the services of qualifying vacant lot dust control contractors who have the expertise and credentials to provide this specialized chemical application service for the County Facilities Management Department (FMD) and other County agencies on an as-needed basis. This means responsive/responsible contractors shall be pre-qualified with a 90 day firm fixed pricing. Pricing submitted will be held firm for ninety (90) days. As the services are required, each qualified contractor shall be provided a project site address and scope of work. The contractors will be asked to submit quotations to the requesting County department.

The Environmental Protection Agency (EPA) promulgated the final Federal Implementation Plan (FIP) for Arizona, which addresses in part, the control of PM-10 emissions from vacant lots, unpaved parking lots, and unpaved roads. PM-10 refers to particulate matter in the air with diameters of ten (10) microns or less which has been proven to be a significant health hazard when present in significant concentrations.

The intent of this IFB is to provide soil stabilization treatment which will comply with EPA PM-10 rules as related to vacant lots owned by Maricopa County, and defined in Federal Regulation 40 CFR Part 52, FRL-6511-3, 12/21/99 FIP, and Maricopa County Environmental Services Department, Air Quality Division, Rules 310 and 310.01. All the proposed work is located in Maricopa County.

This contract shall be awarded to multiple responsive/responsible bidder(s) based on application technologies as specified. **Maricopa County reserves the right to add contractors to this contract throughout its term as required to ensure adequate competition.**

2.0 **TECHNICAL SPECIFICATIONS:**

2.1 The work may include application of one or more of the following:

2.1.1 **Acrylic Polymer Dust Palliative:** The palliative material shall be acrylic, acrylate, or acetate liquid polymers (pH of 4.0-9.5) and ~~minimum~~ **manufacture's solids with a minimum percent** content of 40% (by weight). Acrylic Polymer products shall not contain nor emit CFCs, freons or VOCs (**not greater than 1 gram per liter of volatile organic compounds**). HMIS ratings shall be equal to or less than each of the following categories: H=1;F=1;R=1;PPF=X.

2.1.2 **Petroleum Hydrocarbon Emulsion:** The emulsion material shall be a petroleum hydrocarbon emulsion (pH of 4.0-7.0) with a ~~minimum~~ **manufacture's solids with a minimum percent** content of 60 percent by weight, in its concentrate form. **Petroleum Hydrocarbon Emulsion products shall not contain or emit CFCs, freons, or VOCs (not greater than 1 gram per liter of volatile organic compounds).**

2.1.3 **Gypsum Mulch Dust Palliative:** The mulch material shall be gypsum blended fiber mulch. Gypsum Mulch products shall not contain or emit CFCs, freons or VOCs. HMIS ratings shall be equal to or less than the following categories: H=1;F=1;R=1;PPF=X.

2.1.4 **Non-Gypsum Mulch Dust Palliative:** The material shall be fiber mulch, non-gypsum blend. Non-Gypsum Mulch products shall not contain or emit CFCs, freons or VOCs. HMIS ratings shall be equal to or less than the following categories: H=1;F=1;R=1;PPF=X.

2.1.5 **Other Products:** Please submit other products that the County may consider.

2.2 The Contractor assigned to this contract shall not start any job without prior approval from the appropriate County department.

2.3 Applications:

2.3.1 The driver of the vehicle dispersing the product **MUST** have a minimum of 6-months application experience --or-- the driver is to be accompanied by someone with application experience. Failure of Contractor to follow this requirement shall cause the County to cancel the application and all mobilization and demobilization costs shall be incurred by the Contractor, including cost to unload the chemical back to his supplier.

- 2.3.2 The products shall provide dust suppression and soil stabilization to all areas specified within the project limits.
- 2.3.3 Stabilized surface referenced herein shall be defined in the Promulgation of Federal Implementation Plan for Arizona: Revision to Promulgation of Federal Implementation Plan for Arizona – Maricopa Non-attainment Area; PM-10 (40 CFR Part 52 FRL-6511-3) Published in Federal Register December 21, 1999, and Maricopa County Environmental Services Department, Air Quality Division, Rules 310 and 310.01.
- 2.3.4 The products used for dust palliatives/stabilizers and their degradation products shall not be composed of any element, compound, or mixture, or produce runoff with the characteristics identified under Arizona Administrative Code R18-8-261, emit or off gas during placement, use, or degradation of any hazardous air pollutant listed under §112 of the Federal Clean Air Act (42 U.S.C. 7412), be a hazardous chemical substance or mixture pursuant to §7 of the Federal Toxic Substance Control Act (15 U.S.C. 2606), be designated by rule an extremely hazardous chemical substance pursuant to the Arizona Environmental Quality Act (**enabling act for ADEQ**), nor be prohibited for use by the Arizona Department of Environmental Quality (ADEQ), the EPA, or any applicable law, rule, or regulation.
- 2.3.5 The dust palliatives/stabilizers or their components and degradation products shall not be substances or composed of substances known to be, or reasonably anticipated to be, carcinogenic by the U.S. Department of Health and Human Services.
- 2.3.6 The Contractor shall provide adequate proof that storm water runoff from treated areas (as a result of application of the chemical dust palliative/stabilizer product) shall not be in violation of the Arizona Surface Water Quality numeric standards as defined in the Arizona Administrative Code, Title 18, Chapter 11, for the Salt River, Indian Bend Wash or the Arizona Canal Diversion Channel. Adequate proof can be shown by providing ALL of the following and cannot be more than four (4) years old:
- (a) Complete aquatic toxicity test for lethal concentration at 50% (LC50). If necessary, documentation that could be traced back to the original manufacturer, and specific batch number of the product.
 - (b) Complete list of all individual chemical constituents (**including MSDS sheets of all chemicals**) (including proprietary chemical information) and percentage of each in a given volume of pure chemical product. **This information must be submitted with the bid. If data is proprietary and confidential, submit these in a separate sealed envelope marked “PROPRIETARY AND CONFIDENTIAL”. After review, the County will, at the Contractor’s option, return the information or have it shredded.**
 - (c) Surface water runoff test. This test involves running distilled water over a treated soil area, collecting the test water, and submitting to a certified lab (preferably by the State of Arizona) for analysis.
 - (d) The Contractor shall provide the weight of solids per gallon of undiluted product (where applicable).
 - (e) Provide name and phone number of your supplier and company chemist.
 - (f) All testing performed on the product to verify compliance of these document criteria shall be performed on the undiluted concentrate of the product itself. **The product shall be delivered to the lab in undiluted form.** Dilution of the product may only occur as determined by the laboratory equipment detection limits **based on manufacturer’s recommendations.** The actual trade name of the product submitted shall be on all chain of custody documentation and test results documentation. All original laboratory data must be submitted with the tested product’s exact identifiable name on all results sheets.

2.4 Performance Requirements:

- 2.4.1 The contractor shall be equipped with certified meter or weight tickets and calibration charts relating to the specific gravity of the concentrate and/or dilution to provide for accurate, rapid determination and control of the amount of dust palliative being applied. The spreading equipment shall be designed so that uniform application of a dust palliative can be applied in controlled amounts ranging from .50 to 2.0 gallons per square yard.
- 2.4.2 Application of the products **for vacant lots** in accordance with these specifications and as described in the application methods submittal shall provide a stabilized surface, as defined herein and in accordance with the test methods provided in these specifications, for a minimum of twelve (12) months from completed application of product (warranty). Any section of the lot that is violated by human activity, not authorized by the Contractor, shall void the warranty for that damaged section. At the County's option, the Contractor may re-treat the damaged area at additional cost and thus reinstate the full warranty.

Traffic areas shall be warranted for one (1) year.

- 2.4.3 The contractor shall provide and install the product free of charge if the finished project fails to meet the performance requirements of these specifications. The Contractor shall provide additional applications when they are required, and within 48 (forty-eight) hours from a performance failure when notified via certified letter.
- 2.4.4 The product will be measured by the square yard (for time & materials work) of the specified area, or as ordered by FMD. No separate measurement or payment will be made for any product materials used for temporary air and water pollution, soil erosion, or siltation control.
- 2.4.5 All products must be applied by a Bear Cat Sprayer or other approved truck specifically designed for applications of palliatives. **Multiple applications are acceptable. Water tank trucks shall be used for water only.**
- 2.4.6 The Contractor must make sure the product does not form a "skin" on the surface of the soil. A "skin" is the formation of any palliative on the surface that can be dislodged or peeled from the soil. Any formation of the palliative on the soil surface must adhere to the underlying soil to a depth of 1/8".

2.5 Special Requirements:

- 2.5.1 No equipment or traffic will be permitted on the stabilized areas for a 24-hour period unless approved by the dust palliative manufacturer (vacant lots only).
- 2.5.2 The Contractor shall provide a water source for the dilution of the concentrated dust palliative.
- 2.5.3 Pre-wetting may be required in order to break the surface tension of the soil to be treated, this shall be done in accordance with the manufacturers recommendation. The Contractor shall provide water for pre-wetting as needed.
- 2.5.4 All products must be applied using equipment that is specifically designed for the application of palliatives.
- 2.5.5 The dilution rate of the mix will be one (1) gallon concentrate dust palliative per seven (7) gallons of water, or Maricopa Association of Government specifications, Section 792, or by the County's project manager. **Rates may be adjusted in the field based on conditions or by the County's project manager. The percent of concentrate as recommended by the manufacturer.**

- 2.5.6 The diluted stabilizer (**the percent of concentrate as recommended by the manufacturer**) shall be sprayed on the areas described ~~within, at a rate of 1.40 gallons per square yard~~ utilizing a pressurized, metered distributor truck or application rates shall be as described in the application methods submittal. Rates may be adjusted in the field due to changes in soil or other conditions, only upon FMD approval (the application methods shall be submitted with the bid package and shall clearly define the application procedure in accordance with the manufacturer's recommendations and this bid document). Information required shall be bound with a cover sheet titled "Application Methods Submittal" and state the proposal title, name and address of bidder, name and address of chemical palliative manufacturer, and chemical palliative type and trade name. **Rates may be adjusted in the field based on conditions or by the County's project manager.**
- 2.5.7 In addition to the requirements stated elsewhere, the application methods submittal shall include:
- (a) Manufacturers standard literature for dust palliative/stabilizer.
 - (b) Curing time for each application method.
 - (c) Application and dilution rates proposed for the soil types.
 - (d) Equipment to be used during all phases of application.
 - (e) Description of any construction activities not specifically referenced in the document.
 - (f) Type of equipment utilized to apply the palliative (see §2.4.5, 2.5.11).
- 2.5.8 The application rate may be adjusted in the field due to changes in soil or other conditions only upon FMD approval. The Contractor may offer other dilution rates and the County shall review the suggestion.
- 2.5.9 The surface temperature shall be 50°F and rising before any application. Additionally, should not be applied before, during, or 24 hours after a rainfall. The County shall make the call regarding temperatures.
- 2.5.10 The Contractor shall clear the affected area of all trash and debris and the area inspected for sufficient drainage. Should the Contractor foresee a possible drainage issue, the Contractor shall immediately notify the County prior to the application of the product. All trash generated by the Contractor shall be removed by the Contractor.
- 2.5.11 Application of Gypsum Mulch Dust Palliative may be via a hydro seeder or method of application as deemed by the Contractor.

2.6 Project Work/Time and Materials Work:

Project work shall mean work performed, which, in the best interest of the County, would be more advantageous to be performed as "all inclusive" as opposed to time and materials. Each of the contractors assigned to this contract shall be provided a request for project quote with a detailed Scope of Work. As such, each contractor **MUST** submit a response, with award to the lowest quote of the project. Contractors are not to submit their own project quote sheets. Only County letterhead quote sheets are acceptable. All terms and conditions are those established under this agreement. All additional labor charges outside the Scope Of Work are those established in Attachment A, PRICING.

The threshold from T&M to project work shall be \$1,000.00. Exceptions to this shall be emergencies that arise and must be dealt with immediately without the time for project quotes. This figure is not firm fixed. The County reserves the right to adjust this figure to a higher-level if deemed in the best interest of the department.

A construction tax may be applied to the total project cost. This is calculated at 65% of the retail tax rate applied to the combined labor and materials associated with project work.

The County's project quote sheet will contain the following information:

- The contract serial number;
- Name and address of site;
- FMD site ID number;
- Detailed scope of work,
- Other information relative to the SOW,
- Line item, project cost,
- Check box for "will quote" or "will not quote" the project,
- Deadlines for quote delivery,
- Signature line for both the County and the Contractor

After site review of the project, the Contractor must submit the project quote sheet back to the requestor, either with acceptance and a firm price or decline with a written reason explaining why the project was declined. Contractors who have declined project work three times during a six-month period shall be required to attend a meeting with the Materials Management Department and FMD to discuss possible default of contract.

The submitted project price quote shall be all-inclusive. Any cost overruns shall be absorbed by the Contractor; or cost savings shall be additional profit. Exceptions shall be changes requested by the County that incur higher project cost and longer delays. All change orders to a project must be in writing, referencing the contract serial number, and approved by FMD (or County user agency if requested by them) prior to any authorization to proceed. Contractor failing to acquire change orders in writing run the risk of incurring these additional costs without payment. ALL contractors shall have an opportunity to quote on project work, and the County user agencies MUST ensure all contractors of record for dust stabilization services receive such documentation.

Contractors shall be compensated for additional work requested that is not detailed in the scope at labor rates bid in Attachment A, PRICING.

This contract may also be used for T&M work (under \$1,000) and priced per square foot hour as bid in the pricing section. Each bidder shall be ranked as first call, second call, third call, and so forth. The contractor of record having the lowest cost per square foot shall be called first by the requesting department for time and materials service. If the contractor is unable to respond in the time parameters, the requesting agency shall proceed to the next lowest bidder. The County will maintain a rank call log. Consistent decline of service requests by a contractor or consistent non-compliance with response time specifications shall cause the County to review the file and make a determination for default of contract.

- 2.7 Contractor shall submit product specifications and a Material Safety Data Sheet (MSDS) with the bid for each product anticipated to be utilized, and provide a certificate of compliance with each lot purchased. The certifications shall state as a minimum that the product complies with specifications submitted with the bid.

The MSDS must include all chemical compounds present in concentrations greater than 1.0% for each product bid. If additives are added to the acrylic (other) polymer type product other than water, then complete MSDS's for the acrylic polymer base and each additive shall be provided. The County reserves the right to request and obtain all original MSDS's of the submitted product upon request.

The County reserves the right to request a product sample for its independent chemical analysis before, during, and/or after the product is applied.

- 2.8 Existing Vegetation:
Existing vegetation shall be protected using methods approved by the County. The Contractor and the County representative shall visit the site and a determination made as to which vegetation is to be saved. Equipment shall not be operated within the drip line of existing trees. Vegetation, landscape features and/or irrigation systems that are damaged, destroyed, or removed without consent of the County shall be replaced in kind and size and guaranteed for one (1) year at the Contractor's expense. If the Contractor replaces any vegetation due to damage, the care and maintenance of replacement vegetation shall include watering, pruning, and fertilization as required to ensure the vegetation becomes established within the 12-month warranty period.

- 2.9 The Contractor assigned to this contract shall not start any job without prior approval from the County, with confirmation, start date, and time.

- 2.10 General Requirements:

2.10.1 The Contractor will be responsible for all permits and review fees. The Contractor is specifically reminded of the need to obtain the necessary Maricopa County dust control permits for any earthmoving activities and other environmental permits or files the necessary environmental notices. Copies of these permits and notices must be provided to the County's project manager prior to start of work.

2.10.2 Arrangement for construction water is the Contractor's responsibility.

2.10.3 The contractor is responsible for obtaining the services of utility line locator companies prior to commencement of any digging activities.

2.11 Tax:
No tax shall be levied against labor (with exceptions noted). Bid pricing to include all labor, overhead, tools and equipment used, profit, and any taxes that may be levied. It is the responsibility of the bidder to determine any and all taxes and include the same in bid price.

2.12 Invoicing:
Invoicing must be sent to the User Agency making the request to the Contractor for the services. Most requests will be generated by the Facilities Management Department. Should this be the case, send to:

Facilities Management
401 W. Jefferson St.
Phoenix, AZ 85003

For project work, the invoice MUST contain:
Contract serial number;
Purchase order number (or, if paid by purchase card, so noted);
Terms as bid;
Site name, address, and FMD site number;
Project cost;
Construction tax;
Total

For Time and Materials work:
Contract serial number;
Purchase order number (or if paid by purchase card, so noted);
Terms as bid;
Site name, address, and FMD site number;
Square yard unit bid (or if labor, labor unit bid);
Total square yards (or if labor, total hours);
Materials used;
Sales tax on materials only;
Total

Invoices received without these requirements shall be returned to the Contractor, further delaying payment.

2.13 Required Submittals:

2.13.1 All requirements as stated in §2.3.6. **Note: Information that is deemed confidential and proprietary must be placed in a separate sealed envelope inserted into the sealed bid envelope and marked as such.**

2.13.2 Application methods (§2.5.6 and §2.5.7).

2.13.3 Copies of all MSDS sheets for products anticipated to be used and certificates of compliance with each product lot purchased (§2.7).

2.13.4 Provide the name and phone number of your supplier, or someone who could answer technical questions about the product.

2.13.5 Test Results -- Dust Palliative:
Vendor shall submit test results (report) with the bid from an independent AASHTO accredited lab, signed and sealed by a **registered** Professional Engineer, ~~registered in the state of Arizona~~, showing the CBR value of untreated A-7 soil from Maricopa County and CBR values of that same soil at the optimum stabilizer content. Results of treated soil should show a minimum 25% increase in CBR value over the untreated soil. The test method used shall be a modified version of ASTM D 1883 Test Method for CBR (California Bearing Ratio) of Laboratory Compacted Samples. The following curing modification shall be used:

(a) Curing: CBR specimens, after molding, shall be left in their mold, on their sides and cured in the laboratory air for 7 days prior to being immersed in water for 96 hours and then tested for CBR.

- (b) Moisture Content: CBR samples shall be compacted at the optimum moisture content, both treated and untreated (ASTM D698, method C). Three specimen average required. Surcharge weight shall be 10 Lbs.
- (c) Report: Shall include all the information required by ASTM D 1883, Section 10.0 for both treated and untreated CBR samples. In addition, the penetration vs. stress plow for each test shall be included (ASTM D1883, fig. 2).
- (d) At the County's option, the Contractor shall supply a sample of the product for the purpose of the County conducting its own lab test. The Contractors will be notified if the County wishes to exercise this option.

2.13.6 Copies of State of Arizona Registrar of Contractors License.

3.0 SPECIAL TERMS & CONDITIONS:

3.1 CONTRACT LENGTH:

This Invitation for Bids is for awarding a firm, fixed price purchasing contract to cover a THREE (3) year period.

3.2 OPTION TO EXTEND:

The County may, at their option and with the approval of the Contractor, extend the period of this Contract up to a maximum of TWO (2), one (1) year options. The Contractor shall be notified in writing by the Materials Management Department of the County's intention to extend the contract period at least thirty (30) calendar days prior to the expiration of the original contract period.

3.3 INDEMNIFICATION AND INSURANCE:

3.3.1 INDEMNIFICATION:

To the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or resulting from the acts, errors, omissions, or mistakes relating to the performance of this Contract. **CONTRACTOR'S** duty to defend, indemnify and hold harmless the **COUNTY**, 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 act, errors, omissions or mistakes in the performance of the Contract including any person for whose acts, errors, omissions or mistakes, the **CONTRACTOR** may be legally liable

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

Abrogation of Arizona Revised Statutes Section 34-226:

In the even that A.R.S. § 34-226 shall be repealed or held unconstitutional or otherwise invalid by a court of competent jurisdiction, then to the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or resulting from **CONTRACTOR'S** work or services. **CONTRACTOR'S** duty to defend, indemnify and hold harmless, the **COUNTY**, 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, injury to, impairment or destruction of property including loss of use resulting therefrom, caused in whole or in part by any act or omission of the **CONTRACTOR**, anyone **CONTRACTOR** directly or indirectly employs or anyone for whose acts **CONTRACTOR** may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the **COUNTY**.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of the **COUNTY**.

3.4 **INSURANCE REQUIREMENTS:**

CONTRACTOR, at **CONTRACTOR'S** own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed companies in the State of Arizona with policies and forms satisfactory to the **COUNTY**.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the **COUNTY**, constitute a material breach of the Contract.

The **CONTRACTOR'S** insurance shall be primary insurance as respects the **COUNTY**, and any insurance or self-insurance maintained by the **COUNTY** shall not contribute to it.

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

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 **COUNTY** under such policies. The **CONTRACTOR** shall be solely responsible for the deductible and/or self-insured retention and the **COUNTY**, at its option, may require the **CONTRACTOR** to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The **COUNTY** reserves the right to request and receive, within ten (10) working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The **COUNTY** shall not be obligated, however, to review such policies and/or endorsements or to advise **CONTRACTOR** of any deficiencies in such policies and endorsements, and such receipt shall not relieve **CONTRACTOR** from, or be deemed a waiver of, the **COUNTY'S** right to insist on strict fulfillment of **CONTRACTOR'S** obligations under this Contract.

The insurance policies, required by this Contract, except Workers' Compensation, shall name the **COUNTY**, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The insurance policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the **COUNTY**, its agents, representatives, officers, directors, officials and employees for any claims arising out of **CONTRACTOR'S** work or service.

3.4.1 Commercial General Liability. **CONTRACTOR** shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000.00 for each occurrence with a \$2,000,000.00 Products/Completed Operations Aggregate and a \$2,000,000.00 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of the Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00 01 10 93 or any replacements thereof. The coverage shall include X, C, U.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision which 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, CG 20 10 11 85, and shall include coverage for **CONTRACTOR'S** operations and products and completed operations.

If the **CONTRACTOR** subcontracts any part of the work, services or operations awarded to the **CONTRACTOR**, he shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and **CONTRACTOR'S** Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the **CONTRACTOR'S** work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000.00 per occurrence, and the policy shall be issued by the same insurance company that issues the **CONTRACTOR'S** Commercial General Liability Insurance.

3.4.2 Automobile Liability. **CONTRACTOR** shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000.00, each occurrence, with respect to **CONTRACTOR'S** vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this Contract.

3.4.3 Workers' Compensation. The **CONTRACTOR** shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of **CONTRACTOR'S** employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000.00 for each accident, \$1,000,000.00 disease for each employee, and \$1,000,000.00 disease policy limit.

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

3.5 CERTIFICATES OF INSURANCE:

Prior to commencing work or services under this Contract, **CONTRACTOR** shall furnish the **COUNTY** with Certificates of Insurance, or formal endorsements as required by the Contract, issued by **CONTRACTOR'S** insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this Contract number and title.

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

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the **COUNTY** fifteen (15) days prior to the expiration date.

3.6 CANCELLATION AND EXPIRATION NOTICE:

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the **COUNTY**.

3.7 TERMS AND PAYMENT:

Payment under Contract will be made in the manner provided by law. Invoices shall be prepared and submitted in accordance with the instructions provided on the Purchase Order. Invoices shall contain the following information: Purchase Order number, item numbers, description of supplies and/or services, sizes, quantities, unit prices and extended totals and applicable sales/use tax. The county is not subject to excise tax.

3.8 USAGE REPORT:

The Contractor shall furnish the County a quarterly usage report delineating the acquisition activity governed by the Contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit.

3.9 TECHNICAL AND DESCRIPTIVE LITERATURE:

Bidder(s) must include complete manufacturer's technical and descriptive literature regarding the material they propose to provide. Literature shall be sufficient in detail in order to allow full and fair evaluation of the offer submitted. Failure to include this information may result in the bid being rejected.

3.10 **PROCUREMENT CARD ORDERING CAPABILITY:**

It is the intent of Maricopa County to utilize the Bank of America MC Procurement Card or other procurement card that may be used by the County from time to time to place and make payment for orders under the Contract. Bidders without this capability may be considered non-responsive and not eligible for award consideration.

3.11 **PROMPT PAYMENT DISCOUNT:**

Bidders are strongly encouraged to offer Maricopa County prompt payment discounts for this service and take into consideration receipt of payment within seventy-two hours from time of payment processing. Discounts offered will be considered in the evaluation price analysis process.

3.12 **INQUIRIES:**

All inquiries concerning information herein shall be addressed to:

MARICOPA COUNTY
DEPARTMENT OF MATERIALS MANAGEMENT
ATTN: CONTRACT ADMINISTRATION
320 WEST LINCOLN STREET
PHOENIX, AZ 85003

Administrative telephone inquiries shall be addressed to:

CHARLES HINEGARDNER, PROCUREMENT CONSULTANT, 602-506-6476
~~STEVE DAHLE, LEAD PROCUREMENT CONSULTANT, 602-506-3450 (sdahle@mail.maricopa.gov)~~

Technical telephone inquiries shall be addressed to:
STEVE VARSCSAK, FMD 602-506-8198

Inquiries may be submitted by telephone but must be followed up in writing. No oral communication is binding on Maricopa County.

3.13 **PRE-BID CONFERENCE:**

THERE WILL BE A MANDATORY PRE-BID CONFERENCE ON SEPTEMBER 5, 2001 AT 9:00 AM, AT THE MARICOPA COUNTY FACILITIES MANAGEMENT DEPARTMENT, 401 W. JEFFERSON ST., PHOENIX, AZ 85003

4.0 **CONTRACT TERMS AND CONDITIONS:**

4.1 **LANGUAGE FOR REQUIREMENTS CONTRACTS:**

Contractors signify their understanding and agreement by signing this document, that the Contract resulting from this bid will be a requirements contract. However, this Contract does not guarantee that any purchases will be made. It only indicates that if purchases are made for the services contained in this Contract, that they will be purchased from the Contractor awarded that item. Orders will only be placed when a need is identified by a Using Agency or department and proper authorization and documentation have been approved.

4.2 **ESCALATION:**

Any requests for price adjustments must be submitted thirty (30) days prior to the Contract renewal date. Justification for the requested adjustment in cost of labor and/or materials must be accompanied by appropriate documentation. Escalation shall not exceed the increase in the U.S. Department of Labor (Bureau of Labor Statistics) Consumer Price Index for Urban Consumers. Increases shall be approved in writing by the Materials Management Department prior to any adjusted invoicing submitted for payment.

4.3 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

4.4 TERMINATION FOR DEFAULT:

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after it is deemed by the County, that the Contractor has failed to remedy the problem after being forewarned.

4.5 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate this Contract. If the Contractor should persistently or repeatedly refuse or should fail. Except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of , a substantial violation of any provision of this Contract, then the County may terminate this Contract. Prior to termination of this Contract, the County shall give the Contractor fifteen (15) calendar days written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

4.6 APPROPRIATION CONTINGENCY:

The Contractor recognized that any agreement entered into shall commence upon the day fires provided and continued in full force and effect until termination in accordance with its provisions. The Contractor and the County herein recognized that the continuation of any contract after the close of any given fiscal year of the County which fiscal years end June 30 of each year, shall e subject to the approval of the budget of the County providing for or covering such contract item as an expenditure therein. The County does not represent that said budget item will be actually adopted, said determination being the determination of the County Board of Supervisors at the time of the adoption of the budget.

4.7 ORGANIZATION – EMPLOYMENT DISCLAIMER:

The Contract is not intended to constitute, create, give rise to or otherwise recognize a joint venture contract or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the Contract.

The parties agree that no persons supplied by the Contractor(s) in the performance of obligations under the contract are considered to be County employees, and that no rights of County civil service, retirement or personnel rules accrue to such persons. The Contractor(s) shall have total responsibility for all salaries, wages, bonuses, retirement withholdings, workmen’s compensations, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the County harmless with respect thereto.

4.8 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

4.9 OFFSET FOR DAMAGES;

In addition to all other remedies as Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

4.10 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete services to this Contract. Should a service requirement be deleted, payment to the Contractor will be reduced proportionally, to the amount of service reduced in accordance with the bid price. Should additional services be required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

4.11 SUBCONTRACTING:

The Contractor may not assign this Contract or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

4.12 AMENDMENTS:

All amendments to this Contract must be in writing and signed by both parties.

4.13 CONFORMATION WITH THE LAW:

This service shall be accomplished in conformity with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa and the City of Phoenix.

4.14 CONTRACT COMPLIANCE MONITORING:

The Materials Management Department and the using Agency(ies) shall monitor the Contractors' compliance with, and performance under, the terms and conditions of the Contract. The Contractor shall make available for inspection and/or copying by the County all records and accounts relating to the work performed or the services provided by this Contract.

4.15 RETENTION OF RECORDS:

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The Department, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of any and all said materials.

4.16 ADEQUACY OF RECORDS:

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that allowable services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.17 AUDIT DISALLOWANCES:

If at any time it is determined by the Department that a cost for which payment has been made is a disallowed cost, the Department shall notify the Contractor in writing of the disallowance and the required course of action, which shall be at the option of the Department either to adjust any future claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

4.18 P.O. CANCELLATION LANGUAGE:

The Department of Materials Management reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to an after issuance of the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

Contractors agree to accept verbal notification of cancellation from the Department of materials Management with written notification to follow. By submitting a bid in response to the Invitation For Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

4.19 VALIDITY:

The invalidity, in whole or in part, of any provision of the Contract shall not void or affect the validity of any other provision of this Contract.

4.20 CONTRACTOR RESPONSIBILITY:

The Contractor will be responsible for any damages whatsoever to County property as applicable when such property is the responsibility or in the custody of the Contractor, his employees or Subcontractors.

4.21 GUARANTEE:

The materials and supplies called herein shall be the best of their grade and types, prepared according to the best available standards or accepted formulas, and thoroughly tested and subjected to rigid examination and standardization. Items not meeting these requirements shall be replaced at no cost to the County upon due notice of deficiency.

4.22 DELIVERY:

It shall be the Contractor's responsibility to meet the County's delivery requirements, as called for in the Technical Specifications. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

4.23 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from this Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

4.24 SECURITY AND PRIVACY:

The Contractor agrees that none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. The County shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

The Contractor shall incorporate the foregoing provisions of this paragraph in all of its authorized subcontracts.

INTERNATIONAL SOIL TECHNOLOGIES LLC, 681 N MONTEREY STREET, STE #101, GILBERT, AZ 85233

PRICING: S017912 / B0604218

WILLING TO ACCEPT FUTURE SOLICITATIONS VIA EMAIL: YES NO

ACCEPT PROCUREMENT CARD: YES NO

REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD: YES NO
 (Payment shall be made within 48 hrs utilizing the Purchasing Card)

INTERNET ORDERING CAPABILITY: YES NO % DISCOUNT

OTHER GOV'T. AGENCIES MAY USE THIS CONTRACT: YES NO

1.0 PRICING:

Per specifications, pricing for dust remediation stabilization services, chemical application:

The following prices are for time & materials only. Project work to be quoted separately.

Pricing includes mobilization/demobilization.

		<u>TRAFFIC AREAS</u>		<u>NON-TRAFFIC AREAS</u>	
1.1	Acrylic Polymer Dust Palliative:	\$ <u>0.72</u>	PER. SQ. YARD	\$ <u>0.36</u>	PER. SQ. YARD
1.2	Petroleum Hydrocarbon Emulsion:	\$ <u>N/A</u>	PER. SQ. YARD	\$ <u>N/A</u>	PER. SQ. YARD
1.3	Gypsum Mulch Dust Palliative:	\$ <u>N/A</u>	PER. SQ. YARD	\$ <u>N/A</u>	PER. SQ. YARD
1.4	Non-gypsum Mulch Dust Palliative:	\$ <u>N/A</u>	PER. SQ. YARD	\$ <u>N/A</u>	PER. SQ. YARD
1.5	Compaction:	\$ <u>75.00</u>	PER. HOUR	\$ <u>75.00</u>	PER. HOUR
1.6	Other Technologies:	\$ <u>N/A</u>	PER. SQ. YARD	\$ <u>N/A</u>	PER. SQ. YARD
1.7	Temporary Remediation, use of water truck:	\$ <u>85.00</u>	PER. HOUR	\$ <u>85.00</u>	PER. HOUR
1.8	Consultation services:	\$ <u>70.00</u>	PER HOUR		
1.9	Labor, for services outside the scope of contract:	\$ <u>27.00</u>	PER HOUR		
1.10	Additional product, cost plus:	<u>18</u> %			

INTERNATIONAL SOIL TECHNOLOGIES LLC, 681 N MONTEREY STREET, STE #101, GILBERT, AZ 85233

Terms:	NET 30
Vendor Number:	W000004878 X
Telephone Number:	480-545-5454
Fax Number:	480-545-5456
Contact Person:	Chad Falkenberg Dorian Falkenberg
E-mail Address:	chad@soiltac.com <u>info@soilworks.com</u>
Website Address:	<u>www.soiltac.com</u>
Contract Period:	To cover the period ending NOVEMBER 30, 2006 2004 2006