Chandler · Arizona Where Values Make The Difference	**PURCHASING ITEM FOR COUNCIL AGENDA**	**1. Agenda Item Number**: 29 **2. Council Meeting Date**: August 9, 2007

TO: MAYOR & COUNCIL	**3. Date Prepared**: July 20, 2007
THROUGH: CITY MANAGER	**4. Requesting Department**: Management Services

5. SUBJECT: Award contract for Printing of Forms MS8-966-2471 for the Printing of Forms to Fiesta Printed Products in an amount not to exceed $100,000 ($50,000 per year for 2-years).

6. RECOMMENDATION: Recommend approval of contract MS8-966-2471 for the Printing of Forms to Fiesta Printed Products in an amount not to exceed $50,000 per year for two-years with the option to renew for three (3) additional one-year periods for a total possible contract amount not to exceed $250,000.

7. HISTORICAL BACKGROUND/DISCUSSION: An RFP was issued for Printing of Forms for various forms stocked in the City's Central Supply and used by several departments within the City. The forms that are available under the contract include Traffic Citations, Final Notice Forms, Transaction Privilege (Sales & Use Tax Returns, Utility Bills, and City letterhead. In addition, the City has the option of adding additional forms at a later date, if deemed necessary.

8. EVALUATION PROCESS: On June 20, 2007 staff issued RFP MS8-966-2471 for the Printing of Forms. The RFP was advertised and all registered vendors were notified. A total of five responses were received and evaluated. Staff is recommending award to Fiesta Printed Products, who was deemed to have submitted the lowest responsive and responsible offer.

9. FINANCIAL IMPLICATIONS: Funds for Printing of Forms will be from the Central Supply Inventory account 101.0000.0000.1516 and charged back to various departments' printing accounts.

10. PROPOSED MOTION: Recommend approval of a contract with Fiesta Printed Products for the Printing of Forms in an amount not to exceed $100,000 ($50,000 per year for 2-years) with the option to renew for three (3) additional one-year periods for a total amount not to exceed $250,000.

APPROVALS

11. Requesting Department William Robinson, Central Supply Supervisor	**12. Department Head** O.D. Burr, Acting Management Services Director
13. Buyer Sharon Brause, CPPB	**14. City Manager** W. Mark Pentz

CC Form 10 - 02/95

CITY OF CHANDLER PURCHASE CONTRACT
PRINTING OF FORMS
CONTRACT NO.: MS8-966-2471

THIS AGREEMENT is made and entered into this 1st day of Aug, 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and , hereinafter referred to as "CONTRACTOR".

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATION AND OPERATION:

1.1. Contract Administrator: CONTRACTOR shall act under the authority and approval of the Central Supply Supervisor /designee (Contract Administrator), to provide the goods and merchandise required by this Contract.

1.2. Ordering Instructions: Authorization for purchases under the terms and conditions of this contract will be made only upon issuance of a CITY Purchase Order, a Contract Release Order or use of a City Procurement Card.

1.3. Ordering Process. Upon award of a contract by the City, any designated department may procure the specific product, equipment or material awarded by the issuance of a Contract Purchase Order to the appropriate CONTRACTOR. Each Contract Purchase Order must cite the correct Chandler contract number.

1.5. Usage Report. CONTRACTOR shall furnish CITY a usage report ANNUALLY delineating the acquisition activity governed by the contract. The format of the report shall be approved by CITY and shall disclose the quantity and the dollar value of each contract item by individual purchasing unit.

2. GOODS AND MERCHANDISE TO BE PROVIDED: CONTRACTOR shall provide to CITY the forms listed in Exhibit A, attached hereto and made a part hereof by reference, at the prices listed on Exhibit B, all as more specifically set forth in the Specifications and details included therein.

2.1. Safety Standards: All items supplied pursuant to this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.

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

2.3. Product Discontinuance (Categories): In the event that a required product or model is discontinued by the manufacturer, CITY at its sole discretion may allow CONTRACTOR to provide a substitute for the discontinued item. CONTRACTOR shall request permission to substitute a new product or model and provide the following:

A formal announcement from the manufacturer that the product or model has been discontinued.

Documentation from the manufacturer that names the replacement product or model.

Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.

Documentation confirming that the price for the replacement is the same as or less than the discontinued model.

If requested by CITY, CONTRACTOR shall provide a sample of the replacement product.

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

2.5. **Contract Orders:** CONTRACTOR shall, in accordance with all terms and conditions of this Contract, fully perform and shall be obligated to comply with all contract orders received by CONTRACTOR prior to the expiration or termination hereof, unless otherwise directed in writing by the Contract Administrator, including, without limitation, all contract orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

2.6. **Advertising, Publishing and Promotion of Contract:** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

2.7. **Compliance With Applicable Laws:** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable license and permit requirements.

2.8. **Payment.** A separate invoice shall be issued for each shipment of goods or materials, and no payment will be issued prior to receipt of goods or materials and receipt of a correct invoice.

2.9. **Estimated Quantities.** The quantities shown on Exhibit B (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. CITY reserves the right to increase or decrease the quantities actually required.

2.10. **New/Current Products.** All goods, equipment, materials, parts and other components supplied pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended.

2.11. **Packing and Shipping.** The CONTRACTOR shall be responsible for industry standard packing, which conforms to requirements of carrier's tariffs and Interstate Commerce Commission (ICC) regulations. Containers must be clearly marked as to lot number, destination, address and purchase order number.

3. **Warranties:**

3.1. **Liens:** CONTRACTOR warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

3.2. **Quality:** Unless otherwise modified elsewhere in these terms and conditions, CONTRACTOR warrants that, for one year after acceptance by CITY of the materials, they shall be:

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

3.2.2. Fit for the intended purposes for which the materials are used;

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

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

3.2.5. Conform to the written promises or affirmations of fact made by CONTRACTOR.

3.3. **Fitness:** CONTRACTOR warrants that any material supplied to CITY shall fully conform to all requirements of the Contract and all representations of CONTRACTOR, and shall be fit for all purposes and uses required by the Contract.

3.4. **Inspection/Testing:** The warranties set forth in Section 3 herein are not affected by inspection or testing of or payment for the materials by CITY.

4. **ACCEPTANCE AND DOCUMENTATION:** All goods are subject to final inspection and acceptance by CITY. Material failing to meet the requirements of this Contract will be held at CONTRACTOR's risk and may be returned to CONTRACTOR. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of CONTRACTOR. CITY may elect to do any or all of the following: Waive the non-conformance; stop the work immediately; or bring the material into compliance. Defective Products. All defective products shall be replaced and exchanged by CONTRACTOR. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the CONTRACTOR. All replacement products must be received by CITY within seven (7) days of initial notification

4.1. **Records.** The CONTRACTOR shall retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

4.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, CONTRACTOR's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, CONTRACTOR shall produce a legible copy of any or all such records.

4.3. **Delivery.** Delivery shall be made within fourteen (14) calendar days after receipt of a Contract Purchase Order (ARO).

5. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed One Hundred Thousand Dollars ($100,000) ($50,000 per year for two years) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit B, attached hereto and made a part hereof by reference.

5.1. **Pricing:** Prices stated include all freight, insurance, warranty costs, and any other applicable costs.

5.2. **Payment:** A separate invoice shall be issued for each shipment of goods or merchandise, and no payment will be issued prior to receipt of material and a correct invoice. All billing invoices shall include delivery time, purchase order number, and contractual payment terms. Items are to be identified by the name, model number, contract number, line item number, and serial number if applicable. Payment. CONTRACTOR shall submit to the issuing department, after completion of the task or combination of tasks listed by the issuing departments task order, a statement of charges for the work completed under that task order, in conformance with the pricing schedule of this contract, the issuing department shall process the claim for prompt payment in accordance with the standard operating procedures of CITY.

5.3. **Delivery:** All prices are F.O.B. Destination and include all delivery and unloading at the specified destinations. CONTRACTOR shall retain title and control of all goods until they are delivered and accepted by CITY. All risk of transportation and all related charges shall be the responsibility of CONTRACTOR. All claims for visible or concealed damage shall be filed by CONTRACTOR. CITY will notify CONTRACTOR promptly of any damaged goods and shall assist CONTRACTOR in

arranging for inspection.

5.4. **Risk of Loss:** CONTRACTOR shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with CONTRACTOR regardless of receipt.

5.5. **TAXES:** CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR.

5.6. **Tax Credits or Exemptions:** When equipment, materials or supplies generally taxable to CONTRACTOR are eligible for a tax exemption due to the nature of the work, CONTRACTOR shall assist CITY in applying for and obtaining such tax credits and exemptions which shall be paid or credited to CITY.

5.7. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless said form is not required by law.

5.8. **Price Adjustment (Annual).** All prices offered herein shall be firm against any increase for one (1) year from the effective date of the Contract. Prior to commencement of subsequent renewal terms, CITY will entertain a fully documented request for price adjustment. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time the Contract was executed directly correlated to the price of the product concerned.

5.9. **Acceptance by CITY.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.

5.10. **Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its products concurrent with a published price reduction made to other customers.

6. **TERM:** The term of the Contract is two year (s), commencing on the 1st day of August, 2007 and terminating on July 31, 2009 unless sooner terminated in accordance with the provisions herein. CITY reserves the right, at its sole discretion, to extend the Contract for up to three (3) additional terms of one year each.

7. **USE OF THIS CONTRACT:** CONTRACTOR is aware that there is more than one CONTRACTOR who has been awarded a Contract to provide this type of goods and materials. CITY reserves the right and will issue Purchase Orders for goods and materials based on ability of CONTRACTOR to meet CITY's schedule and/or price.

7.1. **Emergency Purchases:** CITY reserves the right to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7.2. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the contracted CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

8. CITY'S CONTRACTUAL REMEDIES:

8.1. Right to Assurance: If CITY in good faith has reason to believe that CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that CONTRACTOR give a written assurance of intent to perform. Failure by CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at CITY's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Non-exclusive Remedies: The rights and the remedies of CITY under this Contract are not exclusive.

8.3. Nonconforming Tender: Goods, materials or merchandise supplied under this Contract shall fully comply with this Contract and the specifications included herein. The delivery of goods, materials or merchandise or any portion thereof that do not fully comply constitutes a breach of contract. On delivery of nonconforming goods, materials or merchandise, CITY may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.4. Right of Offset: CITY shall be entitled to offset against any sums due to CONTRACTOR, any expenses or costs incurred by CITY, or damages assessed by CITY concerning CONTRACTOR's non-conforming performance or failure to perform the Contract, including costs and damages incurred by CITY.

9. TERMINATION:

9.1. Termination for Convenience: CITY reserves the right to terminate this Contract or any part thereof for its sole convenience with fifteen (15) days written notice. CONTRACTOR shall receive payment for the goods and materials already shipped to CITY.

9.2. Termination for Cause: CITY may, upon written notice, terminate this Contract for CONTRACTOR'S failure to comply with the terms of this Contract.

9.3. Termination for Misrepresentation. CITY may, upon written notice, terminate this Contract for any attempt by CONTRACTOR to represent any goods or materials not specifically awarded as being under contract with the CITY of Chandler. Any such action is subject to the legal and contractual remedies available to CITY inclusive of, but not limited to, contract cancellation, suspension and/or debarment of CONTRACTOR.

9.4. Cancellation for Conflict of Interest: Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of CITY is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

9.5. Gratuities: CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by the CONTRACTOR or a representative of the CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered

by the CONTRACTOR.

9.6. **Suspension or Debarment:** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that the CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Sub-CONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If the CONTRACTOR becomes suspended or debarred, the CONTRACTOR shall immediately notify CITY.

9.7. **Continuation of Performance Through Termination:** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

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

10. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

11. **ALTERNATE DISPUTE RESOLUTION:** Notwithstanding anything to the contrary provided elsewhere in the Contract documents, the alternate dispute resolution (ADR) process provided herein shall be the exclusive means for resolution of claims or disputes and other matters in question between CITY and CONTRACTOR arising out of, or relating to the Contract documents, interpretation of the Contract, or the performance or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

11.1. **Notice:** CONTRACTOR shall submit written notice of any claim or dispute to the Contract Administrator within thirty (30) days of the occurrence, event or disputed response from CITY for immediate resolution pursuant to these provisions. Each claim or dispute shall be submitted and resolved as they occur and not postponed until the end of the Contract nor lumped together with other pending claims.

11.2. **Forfeiture:** Failure to submit a notice of any claim, dispute, or other issue within such thirty (30) days shall constitute CONTRACTOR'S forfeiture of its right to dispute the issue, raise the claim or make the request and shall also constitute CONTRACTOR'S agreement and acceptance of CITY'S position.

11.3. **CITY Response:** The Contract Administrator will provide to CONTRACTOR a written response to any claim, request for clarification or dispute on or before thirty (30) days from receipt of CONTRACTOR'S written claim.

11.4. **Appeal:** If CONTRACTOR disagrees with the response of the Contract Administrator, within fifteen days of the date of the response by the Contract Administrator, CONTRACTOR shall file with the Contract Administrator, written notice of appeal. The Contract Administrator shall provide copies of all relevant information concerning the Contract and claim or dispute to the Assistant Management Services Director who will determine the appeal. The Assistant Management Services Director may request additional information from either party, may hold an informal informational hearing or may

make the determination based on the information provided. The Assistant Management Services Director shall make a final determination of the appeal and provide written notice to CONTRACTOR within sixty (60) days from the date of CONTRACTOR'S written notice of appeal.

11.5. Arbitration: If CONTRACTOR is not satisfied with the determination of the Assistant Management Services Director, the following binding arbitration procedure shall serve as the exclusive method to resolve all unresolved disputes. If CONTRACTOR chooses not to accept the decision of the Assistant Management Services Director, CONTRACTOR shall notify the Contract Administrator in writing within ten (10) business days of receipt of the Assistant Management Services Director's decision of a request for arbitration. The CONTRACTOR shall post a cash bond with the Arbitrator in the amount of $5,000, or a greater amount as determined by the Arbitrator, that will defray the cost of the arbitration as set forth in paragraph M, Fees and Costs, and proceeds from said bond shall be allocated in accordance with said paragraph by the Arbitrator.

A. **Arbitration Panel:** The Arbitration Panel shall consist of the arbitrators selected by the parties involved in the dispute, (i.e., CITY will select one arbitrator, CONTRACTOR will select one arbitrator, and any other CONTRACTOR who has a contract with CITY which contains this ADR provision and is a party to the same dispute will also select an arbitrator), and the foregoing arbitrators shall select a neutral Arbitrator who will hear the matter and make a final determination, as set forth herein.

B. **Expedited Hearing:** The parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Arbitrator to set an expedited hearing if circumstances justify it. The Arbitrator shall contact the parties and schedule the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical, but in no event later than sixty (60) days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitrator upon a showing of emergency circumstances.

C. **Procedure:** The Arbitrator shall conduct the hearing that will resolve disputes in a prompt, cost efficient manner giving due regard to the rights of all parties. Each party shall supply to the Arbitrator a written pre-hearing statement, which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The Arbitrator, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to conform to such orders of the Arbitrator.

D. **Hearing Days:** To effectuate the parties' goals, the hearing once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances.

E. **Award:** The Arbitrator shall within ten (10) days from the conclusion of any hearing issue its award. The award shall include an allocation of fees and costs pursuant to the Binding Arbitration Procedure paragraph herein. Any award providing for deferred payment shall include interest at the rate of ten (10%) percent per annum. The award is to be rendered in accordance with the Contract and the laws of the State of Arizona.

F. **Scope of Award:** The Arbitrator shall be without authority to award punitive damages, and any

such punitive damage award shall be void. The Arbitrator shall also be without authority to issue an award against any individual party in excess of $500,000, exclusive of interest, arbitration fees, costs, and attorney's fees. If an award is made against any individual party in excess of $50,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and statement as to how damages were calculated.

G. **Jurisdiction:** The Arbitrator shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.

H. **Entry of Judgment:** Any party can make application to the Maricopa County Superior Court for confirmation of any award and for entry of judgment on it.

I. **Severance and Joinder:** To reduce the possibility of inconsistent adjudications, the Arbitrator, may at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and the Arbitrator may, on his own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by any party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitrator is not authorized to join to the proceeding parties not in privity with CITY.

J. **Appeal:** Any party may appeal errors of law by the Arbitrator if, but only if, the errors arise in an award in excess of $100,000; the exercise by the Arbitrator of any powers contrary to or inconsistent with the Contract; or any of the grounds provided in A.R.S. 12-1512. Appeals shall be to the Maricopa County Superior Court within fifteen (15) days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this section.

K. **Uniform Arbitration Act:** Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as enacted in Arizona in A.R.S. l2-1501, et. seq.

L. **Fees and Costs:** Each party shall bear its own fees and costs in connection with any informal hearing before the Assistant Management Services Director. All fees and costs associated with any arbitration before the Arbitrator, including without limitation, the Arbitrator's fees, the prevailing party's attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitrator.

M. **Equitable Litigation:** Notwithstanding any other provision of ADR to the contrary, any party may petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to ongoing work pending resolution of a dispute pursuant to ADR provided for herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order or award entered by the Arbitrator. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

12. INDEMNIFICATION: To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages

and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from CONTRACTOR'S work or services. CONTRACTOR'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of CONTRACTOR, anyone directly or indirectly employed by them or anyone for whose acts CONTRACTOR may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property.

13. NOTICES: All notices or demands required to be given pursuant to the terms of this Contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY

Department:	Central Supply
Contact:	William Robinson
Mailing Address:	PO Box 4008 – MS 903
Physical Address:	975 E Armstrong Way #I
City, State, Zip	Chandler AZ 85249
Phone:	480-782-2416
FAX:	480-782-2420

In the case of the CONTRACTOR

Firm Name:	Fiesta Printed Products
Contact:	Mike Crothers
Address:	7305 S Kyrene Rd Ste 101
City, State, Zip	Tempe AZ 85283
Phone:	480-940-0600
FAX:	480-940-0933

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. GENERAL TERMS:

14.1. Entire Agreement: This Contract, including Exhibits A and B attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Contract may not be modified or amended except by a written document, signed by authorized representatives or each party.

14.2. Arizona Law: This Contract shall be governed and interpreted according to the laws of the State of Arizona.

14.3. Assignment: Services covered by this Contract shall not be assigned in whole or in part without the prior written consent of CITY.

14.4. Amendments: The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by CITY in writing or made unilaterally by the CONTRACTOR are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on those changes.

14.5. Conflict of Interest:

14.5.1 No Kickback: CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of City Council or any employee of CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to CITY.

14.5.2 Kickback Termination: CITY may cancel this Contract, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of CITY'S departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a CONTRACTOR to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from CITY is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. §38-511).

14.5.3 No Conflict: CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

14.6. Independent CONTRACTOR: The CONTRACTOR under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

14.7. No Parole Evidence: This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

14.8. Ownership. All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

14.9. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this _____ day of _____ 20____.

FOR THE CITY OF CHANDLER

_____
MAYOR

FOR THE CONTRACTOR

By: _____
Signature

ATTEST:

_____
City Clerk

SEAL

ATTEST: If Corporation

_____
Secretary

Approved as to form:

_____
City Attorney

EXHIBIT A
TECHNICAL SPECIFICATIONS
PRINTING OF FORMS – TERM CONTRACT
BID NO. MS8-966-2471

A. SCOPE

CONTRACTOR shall provide printing of various forms on an as-needed basis.

1. CONTRACTOR shall meet with Contract Administrator or Administrative Services Supervisor to insure the form properly aligns with CITY's printing equipment. Unless otherwise specified by CITY's Purchasing Office, samples will be furnished, at no expense to CITY.

2. CONTRACTOR shall forms properly box and identify on the outside as to type of form. Quantity shall not exceed 2,000 per carton. Damage to merchandise due to shipment shall be the responsibility of the seller and/or shipper.

3. CONTRACTOR shall provide packaging in shipping container, boxed in suitable units. Each case shall be marked or labeled with name of contents, form number, quantity enclosed, CITY purchase order number and name of vendor. If packages are stapled, CONTRACTOR shall insure that none of the forms are damaged by sharp end of staples.

B. GENERAL SPECIFICATIONS

1. CONTRACTOR shall provide numbering where called for on forms. Forms are to be numbered in sequential order and be consecutive through volume purchased. No missed, duplicated or skipped number will be allowed. Any stub perforation shall be strong and clean, allowing easy detachment without tearing form. Stub size is included in specification size for forms. All matching parts within a form set must be printed in registration. Numbering shall be coordinated with the Contract Administrator.

2. CONTRACTOR shall have operated a minimum of three (3) years as the current business and shall maintain strict quality control during production of forms. All forms are to be carefully inspected by CONTRACTOR before delivery to CITY. Any and all forms delivered, which do not meet CITY's specifications or are found to be poorly printed will not be accepted and will be returned to CONTRACTOR for rebate or replacement.

3. No more than 10% over-runs shall be acceptable.

3. CONTRACTOR shall be responsible for minor word changes and/or sentence changes. Major composition costs must be approved by the Contract Administrator and billed as a separate line on the invoice. Any additional costs to the price offered must be approved by Contract Administrator.

C. SPECIFICATIONS

1. **Arizona Traffic Ticket & Complaint** – approximately 25,000 forms used annually.
   Description: 8 ½"x 11 5/8", this includes ¾" perforated top stub and ½" perforated bottom stub; 25 forms per pad; 4-part NCR form carbonless. 1st ply: 2 over 1; 2nd ply: 4 over 0; 3rd ply: 3 over 1, 4th part manila or white cardstock: 3 over 1. 3-ply, with all different printing on back. Wrap-around pad, stapled along the bottom. Sequentially numbered; Ply 2 has 1 section has desensitized ink on the lower right portion. Form has various ink colors. Marginal words. Original copy – white; Courts copy – green; Defendant's copy – red; Officers copy – yellow. City logo in upper left hand corner.

2. **Arizona Civil Citation** – approximately 5,000 forms used annually.
   Description: 8 ½"x 11 5/8", this includes ¾" perforated top stub and ½" perforated bottom stub; 25

forms per pad; 3-part NCR form carbonless. 3-ply, with all different printing on back. Wrap-around pad, stapled along the bottom. Sequentially numbered; Form has various ink colors. Marginal words. Courts copy – white; Defendant's copy – red; Enforcement Agency Officers copy – yellow. 33 lb ledger stock.

3. **Official Receipt** – 4 receipts per page, 3-part NCR paper; pre-numbered consecutively; crash numbers; 100 forms per pad. Wrap-around pad; stapled along left edge; typical 3 color NCR paper (white / canary / pink).

4. **Petty Cash Expenditure** – 50 receipts per book; 2-part NCR paper, 50 per book. Wrap-around pad, stapled along left edge; typical 2-color NCR paper (white / canary).

5. **Final Utility Bill Notice** – approximately 50,000 forms used annually.
Description: 8 ½" x 11" White-OCR compatible paper; print -3 PMS colors (Dark Blue PMS 548 / Grey PMS 4312 / Burgundy PMS 222); extra laser perf.; Husky Offset; 60 lb white, Smooth finish, grain long, or approved equal.

6. **Utility Bill Form** – approximately 750,000 forms used annually.
Description: 8-½" x 11"; double stub, 2-laser perf's.; single copy; OCR compatible paper; 3 PMS colors (Dark Blue PMS 548 / Grey PMS 4312 / Burgundy PMS 222); printed front to back – one (1) color on back; 80 lb. paper , 28-lb MOCR white paper, or approved equal.

7. **Letterhead** – Pre-printed stationery; 8-½" x 11", Hammermill via Bright White; smooth writing, 24 lb. paper or approved equal with City of Chandler 3 PMS color logo (Dark Blue PMS 548 / Grey PMS 4312 / Burgundy PMS 222).

Note: Where appropriate, please provide separate pricing for forms printed on recycled paper.

EXHIBIT B
PRICE SHEET

ITEM	DESCRIPTION	APPROX 6-mo USUAGE*	UOM	UNIT PRICE	EXTENDED PRICE
Category 1					
Item 1:	Arizona Traffic Ticket & Complaint (25 per pad)	15	M	$176.00	$ 2,640.00
Item 2:	Arizona Civil Citation (25 per pad)	5	M	$178.8	$ 894.00
Item 3:	Official Receipt, 100 per pad	100	PADS	$6.10	$ 610.00
Item 4:	Petty Cash Expenditure, 50 per book	20	BOOKS	$10.75	$ 215.00
Category 2					
Item 5:	Final Utility Bill Notice	25	M	$32.60	$ 815.00
Item 6:	Utility Bill Form, double stub	450	M	$17.90	$ 8,055.00
Category 3					
Item 7:	City of Chandler Letterhead	75	REAMS	$24.50	$ 1,837.50
Item 8:	Transaction Privilege (Sales & Use)	50	M	$15.60	$ 780.00
				Sub Total	**$ 15,846.50**
	Sales Tax 8.1 %			**Sales Tax**	**$ 1,283.56**
				Total	**$ 17,130.06**

***Note: Quantities given are based upon annual usage.**

***OPTION: If you are able to provide recycled paper, please copy Exhibit B and provide pricing for that as well.**

Prices offered are to be delivered prices (all shipping and miscellaneous charges inclusive).

Estimated delivery time upon receipt of a purchase order: 14 days.

Minimum order requirement, if any: _____