



REQUEST FOR QUALIFICATION  
RFQu 22-148  
LIBRARY MEDIA MATERIALS AND RELATED SERVICES

City of Phoenix  
251 W Washington St, 8th Floor  
Phoenix, AZ 85003

RELEASE DATE: September 15, 2022  
DEADLINE FOR QUESTIONS: October 7, 2022  
RESPONSE DEADLINE: October 14, 2022, 2:00 pm

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REQUEST FOR QUALIFICATION  
Library Media Materials and Related Services

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## 1. INTRODUCTION

### 1.1. Summary

The City of Phoenix's Library Department intends to establish multiple-award contracts for physical print and audio-visual materials, periodicals, and related services. Offerors may respond to this solicitation in total or to individual categories including general materials, specialty materials, periodicals, cataloging services, catalog enrichment services, shelf-ready services, collection development services, or any associated service provided by Offeror but not referenced herein.

### 1.2. Background

The purpose of this solicitation is to fulfill the Phoenix Public Library's needs and related services on an as-need basis for a five-year contract period commencing January 1, 2023. The Library system currently consists of 16 branch libraries and the Central Library, which also houses technical services operations and administrative offices. The Library's holdings number more than 1,530,000 items. There are more than 900,000 borrowers currently registered. The Phoenix Public Library supports the City Manger's Strategic Plan by promoting early literacy and preparing young children for academic success and achieving educational excellence for all Phoenix residents.

### 1.3. Contact Information

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Contracts Specialist II - Lead

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Phoenix, AZ 85003

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**Department:**

Finance Central Procurement

### 1.4. Timeline

#### Schedule of Events

<b>Solicitation Issue Date</b>	September 15, 2022
<b>Pre-Offer Conference (Non-Mandatory)</b>	September 23, 2022, 9:00am WebEx Link: <a href="#">Click Here to Join the Meeting</a>  Meeting Number: 2452 079 4631 Meeting Password: mYRuReE9N78

<b>Written Inquiries Due Date</b>	October 7, 2022, 2:00pm
<b>Offer Due Date</b>	October 14, 2022, 2:00pm Electronically via Email (preferred): <a href="mailto:procurement@phoenix.gov">procurement@phoenix.gov</a>  or  Hard Copy: City of Phoenix Finance Department - Central Procurement Division 251 W Washington St, 8th Floor Phoenix, AZ 85003

## 2. INSTRUCTIONS

### 2.1. Description - Statement of Need

The City of Phoenix invites sealed offers for Library Media Materials and Related Services for a five-year contract period commencing on or about January 1, 2023, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.

Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

### 2.2. City's Vendor Self-Registration and Notification

Offerors must be registered in the City’s procurePHX Self-Registration System at <https://www.phoenix.gov/procure> to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from an Offeror who has not registered.

### 2.3. Preparation of Offer

All forms provided in Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.

It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror’s errors or omissions.

All time periods stated as a number of days will be calendar days.

It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:

- A. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
- B. Study and carefully correlate Offeror’s knowledge and observations with the solicitation and other related data.
- C. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.

- D. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- E. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- F. Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products offered. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- G. Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.

#### 2.4. Fixed Offer Price Period

All offers shall be firm and fixed for a period of 180 calendar days from the solicitation opening date. Pass-through offer adjustments will be accepted after that date provided said adjustment(s) are submitted in writing with thirty days' advance notice and are accompanied by written documentation of a manufacturer's offer increase. Offer adjustment requests shall be sent to: City of Phoenix, Finance Department, Central Procurement Division, 251 W Washington Street, Phoenix, AZ.

#### 2.5. Delivery

Delivery is an important consideration and will be a factor in determining the award. A delivery time after receipt of order (ARO) must be stated in definite terms. Should there be variations in delivery times by item, the submittal should be clear concerning these variations.

#### 2.6. Obtaining a Copy of the Solicitation and Addenda

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/> Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix, Finance Department, Central Procurement Division, 251 W Washington Street, Phoenix, AZ. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their offer.

## 2.7. Exceptions

Offeror must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Offerors must conform to all the requirements specified in the solicitation. The City encourages Offerors to send inquiries to the procurement officer rather than including exceptions in their Offer.

## 2.8. Inquiries

All questions that arise relating to this solicitation should be directed via email to the Procurement Officer and must be received by the due date indicated in the Schedule of Events. The City will not consider questions received after the deadline.

No informal contact initiated by Offerors on the proposed service will be allowed with members of City's staff from date of distribution of this solicitation until after city council awards the contract. All questions concerning or issues related to this solicitation must be presented in writing.

The Procurement Officer will answer written inquiries in an addendum and publish any addendums on the Procurement Website.

## 2.9. Addenda

The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

## 2.10. Business in Arizona

The City will not enter contracts with Offerors (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of Arizona by the Arizona Corporation Commission, unless the offeror asserts a statutory exception prior to entering a contract with the City.

## 2.11. Licenses

If required by law for the operation of the business or work related to this Offer, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

## 2.12. Certification

By signature in the offer section of the Offer and Acceptance page(s), Offeror certifies:

- The submission of the offer did not involve collusion or other anti-competitive practices.
- The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

## 2.13. Submission of Offer

Offers must be in possession of the Department on or prior to the exact time and date indicated in the Schedule of Events. Late offers will not be considered. The prevailing clock will be the City Department's clock.

Offers must be submitted in one of the following ways:

- A. Submitted in a sealed envelope and the following information should be noted on the outside of the envelope:
  1. Offeror's Name
  2. Offeror's Address (as shown on the Certification Page)
  3. Solicitation Number
  4. Solicitation Title
  5. Offer Opening Date
  6. Such offers must be completed in ink or typewritten. Include the number of copies that are required as indicated in the Submittal section.
- B. Submitted electronically by email to [procurement@phoenix.gov](mailto:procurement@phoenix.gov) and the following information should be noted in the email:
  1. Offeror's Name
  2. Offeror's Address (as shown on the Certification Page)
  3. Solicitation Number
  4. Solicitation Title
  5. Offer Opening Date
  6. Due to file size limitations for electronic transmission (for sending or receiving), offers sent by email may need to be sent in parts with multiple emails. It is the responsibility of the Offeror to ensure that the offer (including all parts if sent in multiple emails) is timely and to confirm that there are no technical reasons that any offer submitted electronically may be delayed. The date and time on the email(s) as received/stamped by the City's inbox will provide proof of submission and verification whether the offer was received on or prior to the exact time and date indicated in the Schedule of Events.
  7. Any original documents (such as bonds, guaranties, powers of attorney), if required by the solicitation, must be separately delivered to and received by the City on or prior to the exact time and date indicated in the Schedule of Events, with a clear indication of the offer for which it is attributed.



## 2.14. Withdrawal of Offer

At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative. If Offeror withdraws the offer electronically by email to the procurement officer, the request to withdraw must be in the form of a letter attached to the email that includes either an image of the duly authorized representative's signature or an electronic signature from a verifiable source, such as Adobe Sign, DocuSign or a similar verifiable software program.

## 2.15. Offer Results

Offers will be opened on the offer due date, time and location indicated in the Schedule of Events, at which time the name of each Offeror, and the prices may be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post a preliminary offer tabulation on the City's website, <https://solicitations.phoenix.gov/Awards> within five calendar days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the offers, the City will post an award recommendation on the website. By signing and submitting its offer, each Offeror agrees that this posting of the award recommendation to the City's website effectively serves as the Offeror's receipt of that notice of award recommendation. The City has no obligation to provide any further notification to unsuccessful Offerors.

## 2.16. Pre-Award Qualifications

Offeror must have been in operation a minimum of one year. The Offeror's normal business activity during the past year will have been for providing the goods or services in this solicitation. (This information must be provided in The Submittal section, Years in Business and Customer Reference Listing of this solicitation.)

## 2.17. Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive, responsible Offeror(s) who are regularly established in the service, or providing the goods, contained in this solicitation and who have demonstrated the ability to perform in an acceptable manner.

- A. Factors that may be considered by the City include:
  - 1. Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,
  - 2. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,

3. Safety record; and,
  4. Offeror history of complaints and termination for convenience or cause.
- B. Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.
- C. A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Chief Procurement Officer or Department Director. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

### 2.18. City's Right to Disqualify for Conflict of Interest

The City reserves the right to disqualify any Offeror based on any real or apparent conflict of interest that is disclosed by the offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before any agency or body, including but not limited to, the City Council of the City of Phoenix or any court.

### 2.19. Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual offerors or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until the resulting contract(s) are awarded to all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Offerors may not discuss the solicitation with any City employees or evaluation panel members.

Offerors may discuss their proposal or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and

Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

“To discuss” means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

## 2.20. Protest Process

Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City’s best interests to set new deadlines, amend the solicitation, cancel or re-bid.

Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.

Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.

Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City’s website to award the contract(s) to an Offeror(s). Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City’s full and final discretion.

All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:

- Identification of the solicitation number;
- The name, address and telephone number of the protester;
- A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
- The form of relief requested; and
- The signature of the protester or its authorized representative.

The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43) and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

### 2.21. Public Record

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked "confidential." The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

### 2.22. Late Offers

Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being late.

### 2.23. Right to Disqualify

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offeror submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

### 2.24. Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award.

## 2.25. Determining Responsiveness and Responsibility

Offers will be reviewed for documentation of minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

**Responsiveness:** Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.

**Responsibility:** To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible contractor. Responsibility includes the Offeror's integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

The Procurement Officer will review each Offer to determine if the Offeror is responsible. The City's determination as to whether an Offeror is responsible will be based on all information furnished by the Offeror, interviews (if any), and information received from Offeror's references, including information about Offeror's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Offeror's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.

## 2.26. Offers Not Within the Competitive Range

The City may notify Offerors of Offers that the City determined are not in the Competitive Range.

## 2.27. Discussions With Offerors in the Competitive Range

The City will notify each Offeror whose Offer is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Offeror. Each Offeror so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Offer. The Offerors in the competitive range may be required to provide a demonstration of their product.

**Demonstrations** - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Phoenix. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City

may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If an Offer in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Offeror to remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so, the City may determine the Offer is nonresponsive, and the City may revoke its determination that the Offer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Offeror about other Offers received in response to this solicitation. During discussions with Offerors in the Competitive Range, the City will not give Offerors specific prices or specific financial requirements that Offerors must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace or otherwise unacceptable. Offerors will not be told of their relative rankings before Contract award.

### 3. SCOPE OF WORK

#### 3.1. Purpose

The intent of this solicitation is to establish multiple-award contracts for physical print and audio-visual materials, periodicals, and related services for the Phoenix Public Library (the "Library"). Offerors may respond to the solicitation in total or to individual categories of materials or services.

#### 3.2. Definitions

"Accounts" Varying accounts linked to specific types of materials, delivery, budgets, turnaround dates, and processing terms.

"Approval Plan" An acquisition method under which a library receives regular shipments of new titles selected by a vendor, based on a profile of library collection needs, and approved by the Collection Manager.

"Audio-Visual Materials" Can include but are not limited to DVDs, CDs, Blu-Ray, and audiobooks on CD or MP3 format.

"Authority Control" A process that organizes bibliographic information in library catalogs by using a single, distinct spelling of a name (access point or heading) or a subject for each topic.

"Bestsellers" A book or other media that sell in very large numbers and is identified by the vendor as being guaranteed for delivery to the library on or before the street date.

"Bibliographic Records" MARC catalog record that conforms to AACR2 (most current edition or revision) and USMARC standards and must reflect any formally adopted changes to these standards throughout the life of the shelf-ready contract, except as modified in an amendment.

"Continuation/Standing Order Plans" Books that are part of a series and that are delivered to the library without the library needing to submit a purchase order. Each instance a new volume is added to the series, it shall be automatically delivered to the library. The library may renew, add or drop standing order books as needed.

"Discounts" Vendors will provide any available discount on materials.

"Duplicate Bibliographic Records" Occurs when the Offeror adds a bibliographic record to the library's database that matches an existing bibliographic record that was created at least 2 weeks prior to the creation of the shelf-ready bibliographic record.

"Fill Rate" The percentage of orders that are fulfilled in a specific period, typically annually.

"Fulfillment Rate" Fulfillment rate is defined as the Library receiving the items on or before the street date.

"Holistic Services" Contractor's title and branch distribution selection based on software algorithms of the library circulation of materials by branch or on profiles provided by the Library Collection Manager.

"Library" Means the Phoenix Public Library.

"MARC" Machine readable cataloging standards that are a set of digital formats for the description of items cataloged by libraries.

"Periodicals" Materials including one or more of the following formats: magazines, newspapers, journals, microforms, government printing subscriptions, proprietary publications, or any form of serial publication."

"Physical Print Materials" Includes individual titles or series of books, regular, large print, and other formats.

"Processed Materials" Items provided by the Contractor that include processing services such as the application of barcodes and spine labels. Processing specifications are outlined in Exhibit A.

"Reference Work" A book to which one can refer for information. Reference works include atlases, dictionaries, directories, encyclopedias, handbooks, thesauruses, bibliographies, or any other work designed to be used in finding specific items of information, rather than for cover-to-cover reading.

"RDA" A standard for descriptive cataloging initially released in June 2010, providing instructions and guidelines on formulating bibliographic data.

"Self-Published" Works published by the author independently and at their own expense.

"Shelf-Ready" Physical collection of library materials received from the Contractor that comes with fully cataloged bibliographic and item records and physical processing (e.g., barcodes, property stamps, spine labels, RFID, etc.)

"Small Press" A small press is a publisher with annual sales below a certain level or below a certain number of titles published. Small presses are usually not part of large conglomerates or multinational corporations. Many small presses rely on specialization in genre fiction, poetry, or limited-edition books or magazines, but there are also thousands that focus on niche non-fiction markets.

"Street Date Materials" Books that are identified by publishers as bestselling materials and are available to bookstores by the date of publication.

### 3.3. Locations

The Library may request materials be delivered to any Library location currently in existence or that may come into existence from time to time. Following is a list of current Library locations:

#### **Central Receiving**

- Burton Barr Central Library, Technical Services, 1221 N Central Ave, 3rd Floor, Phoenix, AZ 85004

#### **Library Branch Locations**

- Acacia Library – 750 E Townley Ave, Phoenix, AZ 85020
- Agave Library – 23550 N 36th Ave Phoenix AZ 85310
- Century Library – 1750 E Highland Ave, Phoenix, AZ 85016
- Cesar Chavez Library – 3635 W Baseline Rd, Phoenix, AZ 85339



- Cholla Library – 10050 Metro Parkway East, Phoenix, AZ 85051
- Desert Broom Library – 29710 N Cave Creek, Phoenix, AZ 85331
- Desert Sage Library – 7602 W Encanto Blvd, Phoenix, AZ 85035
- Harmon Library – 411 W Yavapai, Phoenix, AZ 85003
- Ironwood Library – 4333 E Chandler Blvd, Phoenix, AZ 85044
- Juniper Library - 1825 W Union Hills Dr, Phoenix, AZ 85027
- Mesquite Library – 4525 Paradise Village Parkway North, Phoenix, AZ 85032
- Ocotillo Library – 102 W Southern Ave, Phoenix, AZ 85041
- Palo Verde Library – 4402 N 51st Ave, Phoenix, AZ 85031
- Saguaro Library – 2808 N 46th St, Phoenix, AZ 85008
- South Mountain Community Library – 7050 S 24th St, Phoenix, AZ 85042
- Yucca Library – 5648 N 15th Ave, Phoenix, AZ 85015

### 3.4. Library Materials and Services

The Contractor shall provide materials or services in one or more of the following categories:

- A. Category A - General Materials - Produced for the consumer or general interest market or materials that serve the interest of a scholarly, professional, or technical audience, and bestsellers intended for one or more of the following audience groups: adult (ages 22+), young adult (ages 12-22), or child (birth - 11). May also include associated processing services.
- B. Category B - Specialty Materials - Produced for the consumer or specialty interest market or materials that serve the interest of a scholarly, professional, or technical audience, intended for one or more of the following audience groups: adult (ages 22+), young adult (ages 12-22), or child (birth - 11), in one or more of the following types, and may also include associated processing services:
  1. Spanish Language Materials - General interest, fiction and/or non-fiction books and/or audio-visual material, or popular interest materials from at least 25 publishers located in Mexico, Central America, and South America in the Spanish language.
  2. International Languages Materials - Materials provided in various languages as described in the Bid Discount Schedule, Item 3.
  3. Reference Materials - Materials designated as reference, including atlases, dictionaries, directories, encyclopedias, handbooks, thesauruses, bibliographies, or any other work designed to be used in finding specific items of information, rather than for cover-to-cover reading.

4. Audio-Visual Materials - Materials in one or more of the formats described in the Bid Discount Schedule, Item 5.
  5. Graphic Novel Materials - Materials made of comics content that broadly includes fiction, non-fiction, and anthologized works.
  6. Small Press Materials - Materials from independent publishers of those self-published by the author or creator.
  7. Multimedia Materials - Materials consisting of items made up of more than one type of material, including books or serials in conjunction with software, CD products, microfiche, audio, video, DVD, long-play books, audiobooks, or immersive reality books.
  8. Youth Materials - Materials for an audience from birth to age 18.
  9. Southwest Materials - Materials with content focusing on the history, culture, or issues pertaining to the Southwest area of the United States, including Arizona, New Mexico, Utah, Nevada, California, and the country of Mexico.
  10. Related Services - Services related to the materials provided by the vendor including book processing, DVD processing, CD processing, and shelf-ready services.
- C. Category C - Periodicals - Including one or more of the following formats: magazines, newspapers, journals, microforms, government printing subscriptions, proprietary publications, or any form of a serial publication produced for the consumer or general interest market or materials that serve the interest of a scholarly, professional, or technical audience, intended for one or more of the following audience groups: adult (ages 22+), young adult (ages 12-22), or child (birth - 11).
- D. Category D - Cataloging Services - Cataloging of titles using full MARC records.
- E. Category E - Shelf-Ready Services - Shelf-Ready completely pre-processed materials including MARC cataloging records.
- F. Category F - Collection Development Services - Online branch-specific selection lists of pre-publication materials.
- G. Category G - Authority Control Services - One-time authority control for new and existing bibliographic records or ongoing authority file maintenance.

### 3.5. Category A and B - General Materials and Specialty Materials

The Contractor shall:

- A. **Inventory and Orders**
1. Provide an online inventory of library material.
  2. Provide the number and a list of service centers or warehouses and their addresses.

3. Provide free, unlimited, and ongoing online access for Library staff to a current inventory of materials. The inventory will list the names of products or platforms.
4. If responding to Category A – General Materials, meet the following additional qualifications:
  1. Maintain a minimum inventory of 50,000 titles in stock.
  2. Include an inventory of at least 10,000 new titles added annually.
  3. Provide a list of bestseller titles to the Library's Collection Development Section at least six months prior to the street date to ensure that items are ordered three to six months in advance of publication.
  4. If providing bestsellers, provide a list of titles to the Library's Collection Development Section at least 6 months prior to the Street Date to ensure that items are ordered three to six months in advance of publication and maintain a 90% Fill Rate.
  5. Provide the ability to receive and confirm orders by internet transmission using ANSI X.12 - EDI, ISO 9735 – EDIFACT, or other industry standard formats.
  6. Send notification carts to Library staff at least 30 days prior to publication and ensure the carts include all relevant ordering data.
  7. Provide functionality to automatically cancel back-ordered materials based upon dates provided by Library staff.
  8. Provide a report of cancellations on a monthly basis.
  9. Provide an online ordering platform with the ability for Library staff to electronically build and transfer carts to other Library staff and to the Contractor.
  10. Provide unlimited access to web-based database functions to make changes to online ordering carts.
  11. Provide Continuation, Standing Order, and/or Approval Plans. Indicate levels of service, Contractor support, inventory information, and pricing.
  12. Maintain an established inventory update schedule.
  13. Provide inventory information that contains complete bibliographic and ordering information for current and forthcoming inventory.
  14. Provide functionality to automatically ship materials in agreed-upon numbers. At a minimum, plans that are based on series, author, title, or other parameters.
  15. Allow Library staff to add and drop plans as needed with no penalty and indicate any limitations.

16. Update plans regularly removing those that are no longer available and adding any new offerings, within 30 days of instituting change.
17. Provide an online ordering platform that produces automatic shipment carts with specific titles to be downloaded to Library's integrated library system.
18. Provide confirmations in an electronic format and list purchase order numbers and titles.

**B. Fill Rate**

1. Unless otherwise indicated, achieve an overall Fill Rate, for each year of the contract, of eighty-five percent (85%) of displayed inventory for all items ordered.
2. Provide an annual report disclosing the Fill Rate.
3. Supply and deliver at least 60% of all titles ordered within eight weeks of the order date or publication date for new titles.
4. State the timeframe for filling orders.

**C. Accounts**

1. To the extent practicable, provide and maintain multiple accounts for Library. Accounts may include, but not be limited to:
  - a. Annual operating fund account, processed materials
  - b. Annual operating fund account, non-processed
  - c. Annual operating fund – rush processed orders
  - d. Annual operating fund – shelf-ready materials
  - e. Annual operating fund – automatic shipment orders
  - f. Annual operating fund - bestsellers
  - g. Grant monies account
  - h. Memorial books account
  - i. Continuations or standing order account
  - j. Approval books operating fund account
  - k. Approval grant monies account
  - l. Audio-video operating fund account
  - m. Audio-video grant monies account
  - n. Opening day account(s)

- o. FOK account

**D. Invoicing**

1. Provide invoice generating flexibility which, at a minimum, includes:
  - a. "Bill to" name and address.
  - b. "Ship to" name and address.
  - c. Purchase order number or individual title order number.
  - d. Reference/link to the packing slip.
  - e. Title/author.
  - f. Binding (hardcover, paperback, library binding, etc.).
  - g. The number of copies.
  - h. The list price of the title.
  - i. Discount (percentage).
  - j. Discount cost for the material.
  - k. Net total cost for all copies of material (after discount).
  - l. Processing cost for the material.
2. Provide electronic invoicing capabilities or development plans and indicate the integrated library system(s) (ILS) for which electronic invoicing exists.

**E. Returns**

1. Accept defective materials for return. The Library shall have up to one year to return for full credit even though materials may have been circulated to the public.
2. Accept return for full credit if an ordering mistake occurs because of an inaccuracy in ordering information provided by the Contractor.
3. Provide full credit for returns of defective materials. No expense will be paid by the Library for defective materials including any associated shipping costs.
4. Provide credit memos.

**F. Shipping and Delivery**

1. Inspect all shipments for accuracy and completeness and maintain an annual 98% rate for accuracy (e.g., materials shipped represent the order received) and completeness (e.g., all materials appearing on the packing slip are shipped) throughout the life of the contract.
2. Provide free shipping and delivery.

3. Ship priority (rush pre-processed) materials separately from other materials.
4. Include a packing slip that lists quantities, titles, ISBNs, and purchase order number(s) for all shipments. The packing slip must list "bill to" and "ship to" addresses.
5. Provide clear labeling on the side of cartons for multiple carton shipments so that the Library can discern a total shipment (e.g., 1 of 4, 2 of 4, 3 of 4, 4 of 4). The carton which contains the packing slip must be clearly marked, "Packing slip included."
6. Deliver all shipments to the Burton Barr Central Library between the hours of 7:30 a.m. to 3:30 p.m., Monday through Friday, excluding holidays. Delivery to the Burton Barr Central Library is to be made inside to the 3rd-floor receiving/processing room. Delivery to branch libraries is to be made inside the library buildings at their receiving dock or staff entrances.
7. Notify freight carriers that shipments must arrive inside library buildings. Bills of lading must clearly state that deliveries are inside the library buildings.
8. Supply a direct contact and telephone number for incorrectly delivered items.

**G. Processing**

1. Provide processing of purchased materials and formats. as outlined in Exhibit A - Processing Specifications.
2. Provide a sample of each type of processed material as part of the proposal.
3. After a 60-day period from the date of contract signing, be required to credit the Library for one-third of the processing cost of each affected item for all processing errors in excess of 5% of the number sampled. This credit will reimburse the Library for its efforts in correcting the work of the Contractor.
4. Change processing specifications within 30 days of written notification of said change from the Library.
5. At the request of the Library provide samples of processed materials.
6. Provide all media or multimedia cases in processing.

**H. Support and Training**

1. Provide designated support personnel for Library staff.
2. Provide a guaranteed response time of two business days for all phone calls or correspondence received from the Library.
3. Provide reports at the request of the Library, and include the types of reports and examples of reports.

4. Provide in-person or virtual training on any processes, online platforms, or software that will be used by library staff.
5. Provide information about any system updates a minimum of two business days in advance.

### 3.6. Category C - Periodicals

The Contractor shall:

- A. Provide the ability to consolidate all subscriptions so that they have a common expiration date and the ability to issue a consolidated invoice or invoices to the Library, covering all orders and publishers.
- B. Have the ability to ensure the timely arrival of all issues.
- C. Fill claims for missing issues within one issue cycle of the missing title.
- D. Provide a title alphabetized renewal list with prices, number of subscriptions, and ordering agency at least 2 months prior to the common expiration date for review prior to placing the following year's orders.
- E. Provide the complete subscription order without gaps, duplication, and errors starting with the first issue, starting with the first issue or the first issue after the subscription's expiration date.
- F. Allow additional orders (both additional titles and increased subscriptions) to be placed after the initial order at no more than the subscription list price with no increased service charge or penalty.
- G. Provide direct mailing of subscriptions to all Library locations and be able to handle both centralized and decentralized claiming by individual locations.
- H. Maintain an error rate of less than two percent (2%) on the subscription order throughout the contractual period.

### 3.7. Category D - Cataloging Services

The Contractor shall:

- A. Provide MARC records cataloging services that conform to the latest, most current, national standards, including AACR (most current edition or revision, MARC (format integration)), LC rules interpretations, DDC22 (or most current editions or revisions), and LC subject headings, see Exhibit B. The Library will comply with new editions and requires that the Contractor complies within 6 months.
- B. State cataloging charges for varying formats and must indicate the cost of providing a bibliographic record and any editing based on the standards.
- C. Provide the ability for the Library to receive records via attachment or file transfer protocol transmittal.

- D. Create 852 holdings record creation fields utilizing the correct formats and codes for branch, media, location, collection, call number, and volume/part.
- E. Update library holdings in OCLC monthly by either a batch load process or a manual update for each individual record.
- F. Provide preparation of cataloging and holdings records by a Contractor staff member with an ALA-accredited Masters of Library Science degree and 1 year of professional cataloging experience.
- G. Indicate the number of staff members who will routinely prepare cataloging and holdings records for the Library and must indicate the educational level (associate's, B.S./B.A., M.L.S/M.A.) and years of cataloging experience for each staff member.

### 3.8. Category E - Shelf-Ready Services

The Contractor shall:

- A. Provide shelf-ready books and/or audiovisual materials. Provide price per shelf-ready item based on the format (books, music CDs, spoken word CDs, and MP3s, DVDs, Blu-Ray Discs), cataloging level (original or added copy).
- B. Provide MARC catalog records in UTF-8 with appended holdings records that can be loaded, indexed, and retrieved by the integrated library system.
- C. Export and load bibliographic records, with appended 852 holdings creation fields, into a bibliographic database.

### 3.9. Category F - Collection Development Services

The Contractor shall:

- A. Provide weekly online branch-specific selection lists of pre-publication materials via an online inventory system.
- B. Provide selection lists that may include but not be limited to:
  - Popular books pre-publication or post-publication
  - Subject-specific lists
  - Format/genre-specific lists
  - Author specific lists
  - Lists based on current demand
  - National and Arizona awards list
  - Opening Day collection selection lists



- C. Supply pre-processed or shelf-ready materials ordered from these lists on an agreed-upon schedule.

### 3.10. Category G - Authority Control Services

The Contractor shall:

- A. Provide one or more of the following services:
  - 1. One-time authority control for new and existing bibliographic records
  - 2. Ongoing authority file maintenance
- B. Provide authority control using the most current Library of Congress subject headings, name authority, and series headings.
- C. Provide the ability to upgrade records into RDA format.

### 3.11. Other Services Offered

The Contractor may list and describe any additional services it provides that have not been listed above. Include type of service, detailed description, list of any inventories, and all associated costs.

## 4. EVALUATION PROCESS

### Qualification Criteria

No.	Qualification Criteria
1.	<p><b>Minimum Qualifications</b></p> <p>The qualified and responsible Offeror must meet all minimum qualifications listed below. Should an Offeror fail to meet one of the minimum qualifications identified, the offer shall be disqualified as non-responsive.</p> <p>A. Offeror's Experience</p> <ol style="list-style-type: none"> <li>1. Offeror must have provided Library Media Resources and Services for a minimum of one (1) year. The "Experience" qualification will be verified through the references provided in the Years in Business and References in the Submittals Section of this solicitation.</li> <li>2. Provide an executive summary of your company profile and describe your organization's experience and expertise in each of the Categories the Offeror is proposing in accordance with Section 3.4. The following subsections describe additional information to provide at a minimum: (limit your responses to no more than 5 pages.             <ol style="list-style-type: none"> <li>a. Length of time the firm has been operating as a legal entity.</li> <li>b. Length of time the firm has been providing the requested service.</li> <li>c. Description of the firm's experience in providing comparable services to other government agencies</li> </ol> </li> </ol> <p>B. Offeror's Capability</p> <ol style="list-style-type: none"> <li>1. Provide an executive summary of your company profile and describe your organization's capacity or capability in each of the Categories the offeror is proposing in accordance with Section 3.4.</li> </ol>
2.	<p><b>Category A and/or B - General Materials, Specialty Materials and Related Services</b></p> <ol style="list-style-type: none"> <li>A. A written narrative of the Offeror's online inventory that satisfies the requirements in Section 3.5(A)1.</li> <li>B. Provide a description of service centers and warehouse facilities as described in 3.5(A)2.</li> <li>C. A written narrative describing the online access available to the Library as described in Section 3.5(A)3.</li> <li>D. If proposing in Category A – General Materials, provide a narrative that meets the requirements of Section 3.5(A)4.1 through 3.5(A)4.18.</li> <li>E. A copy of the Offeror's return policy that meets the requirements of Section 3.5(E).</li> <li>F. A sample of the Offeror's credit memo form(s) and any other relevant documentation 3.5(E)4.</li> <li>G. A narrative describing how the Offeror proposes to meet shipping and delivery as described in Section 3.5(F).</li> <li>H. Provide a sample of each type of processed material as described in Section 3.5(G).</li> <li>I. A narrative describing the support and training included that meets the requirements of Section 3.5(H).</li> </ol>

3.	<p><b>Category C - Periodicals</b></p> <p>If submitting under Category C, please provide the following:</p> <ul style="list-style-type: none"><li>A. A narrative describing the Offeror's capability to provide subscription management as described in Section 3.6(A).</li><li>B. A narrative describing the Offeror's capability to provide renewal list management as described Section 3.6(D).</li><li>C. A narrative describing policies or procedures to minimize error rate as described in Section 3.6(H).</li></ul>
4.	<p><b>Category D - Cataloging Services</b></p> <p>If submitting under Category C, please provide the following:</p> <ul style="list-style-type: none"><li>A. A narrative describing the Offeror's approach to providing the cataloging services as described in Section 3.7(A).</li><li>B. A narrative describing the Offeror's ability to deliver records as described in Section 3.7(C).</li><li>C. A narrative describing the Offeror's staff qualifications as required by Section 3.7(F) and 3.7(G).</li><li>D. A brief resume for the cataloging manager who will be assigned to the Library's account.</li></ul>
5.	<p><b>Category E - Shelf-Ready Services</b></p> <p>If submitting under Category C, please provide the following:</p> <ul style="list-style-type: none"><li>A. A narrative describing Offeror's ability to provide shelf-ready materials as described in Section 3.8(A).</li><li>B. A narrative describing Offeror's ability to provide catalog records as described in Section 3.8(B).</li><li>C. A narrative describing Offeror's ability to load bibliographic records as described in Section 3.8(C)</li></ul>
6.	<p><b>Category F - Collection Development Services</b></p> <p>If submitting under Category E, please provide the following:</p> <ul style="list-style-type: none"><li>A. A narrative describing Offeror's ability to provide branch-specific lists as described in Section 3.9(A).</li><li>B. A narrative describing Offeror's ability to provide selection lists as described in Section 3.9(B).</li><li>C. A narrative describing Offeror's ability to pre-processed shelf-ready materials as described in Section 3.9(C)</li></ul>
7.	<p><b>Category G - Authority Control Services</b></p> <p>If submitting under Category F, please provide the following:</p> <ul style="list-style-type: none"><li>A. A narrative describing Offeror's ability to provide one-time or ongoing authority control services as described in Section 3.10(A).</li><li>B. A narrative describing Offeror's ability to provide authority control services using Library of Congress standards as described in Section 3.10(B).</li><li>C. A narrative describing Offeror's ability to upgrade records to RDA format as described in Section 3.10(C)</li></ul>

## 5. STANDARD TERMS AND CONDITIONS

### 5.1. Definition of Key Words Used in the Solicitation

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

**Should:** Indicates something that is recommended but not mandatory. If the Contractor fails to provide recommended information, the City may, at its sole option, ask the Contractor to provide the information or evaluate the offer without the information.

**May:** Indicates something that is not mandatory but permissible.

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

“A.R.S.” Arizona Revised Statute

“Buyer” or “Procurement Officer” City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.

"City" The City of Phoenix

"Contractor" The individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.

"Contract" or "Agreement" The legal agreement executed between the City of Phoenix, AZ and the Contractor.

“Days” Means calendar days unless otherwise specified.

“Chief Procurement Officer” The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.

“Employer” Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).

“Offer” Means a response from a supplier, contractor or service provider to a solicitation request that, if awarded, binds the supplier, contractor or service provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.

“Offeror” Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.

“Solicitation” Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed bids, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of

communication. It is the process by which the City seeks information, proposals, bids or quotes from suppliers.

“Suppliers” Firms, entities or individuals furnishing goods or services to the City.

“Vendor or Seller” A seller of goods or services.

## 5.2. Contract Interpretation

- A. **APPLICABLE LAW:** This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.
- B. **CONTRACT ORDER OF PRECEDENCE:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:
  - 1. Federal terms and conditions, if any
  - 2. Special terms and conditions
  - 3. Standard terms and conditions
  - 4. Amendments
  - 5. Statement or scope of work
  - 6. Specifications
  - 7. Attachments
  - 8. Exhibits
  - 9. Instructions to Contractors
  - 10. Other documents referenced or included in the Solicitation
- C. **ORGANIZATION – EMPLOYMENT DISCLAIMER:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor’s obligations under the agreement are considered to be City’s employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen’s compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and will save and hold the City harmless with respect thereto.

- D. **SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.
- E. **NON-WAIVER OF LIABILITY:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.
- F. **PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

### 5.3. Contract Administration and Operation

- A. **RECORDS:** All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.
- B. **DISCRIMINATION PROHIBITED:** Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended. Any contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.

- C. **EQUAL EMPLOYMENT OPPORTUNITY AND PAY:** In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.
1. **For a Contractor with 35 employees or fewer:** Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.
  2. **For a Contractor with more than 35 employees:** Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements or subleases of this Agreement entered into by supplier/lessee. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

3. **Documentation:** Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.
  4. **Monitoring:** The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary
- D. **LEGAL WORKER REQUIREMENTS:** The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:
1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.
  2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
  3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1
- E. **HEALTH, ENVIRONMENTAL AND SAFETY REQUIREMENTS:** The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City. At the request of City representatives, the Contractor will provide the City:
1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract
  2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.
  3. The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).



- F. **COMPLIANCE WITH LAWS:** Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance. Because the contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor's acts
- G. **LAWFUL PRESENCE REQUIREMENT:** Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.
- H. **CONTINUATION DURING DISPUTES:** Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.
- I. **EMERGENCY PURCHASES:** The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

#### 5.4. Costs and Payments

- A. **GENERAL:** Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.
- B. **PAYMENT DEDUCTION OFFSET PROVISION:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.
- C. **LATE SUBMISSION OF CLAIM BY CONTRACTOR:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

- D. **DISCOUNTS:** Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
- E. **NO ADVANCE PAYMENTS:** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.
- F. **FUND APPROPRIATION CONTINGENCY:** The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.
- G. **MAXIMUM PRICES:** The City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies, by signing this Offer that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Offer and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.
- H. **F.O.B. POINT:** All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

## 5.5. Contract Changes

- A. **CONTRACT AMENDMENTS:** Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.
- B. **ASSIGNMENT - DELEGATION:** No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

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

## 5.6. Risk of Loss and Liability

- A. **TITLE AND RISK OF LOSS:** The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.
- B. **ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.
- C. **FORCE MAJEURE:** Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition. If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.
- D. **LOSS OF MATERIALS:** The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the City.
- E. **CONTRACT PERFORMANCE:** Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor. The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory

performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

- F. **DAMAGE TO CITY PROPERTY:** Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City. Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

## 5.7. City's Contractual Rights

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

- A. **NON-EXCLUSIVE REMEDIES:** The rights and remedies of the City under this Contract are non-exclusive.
- B. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- C. **ON TIME DELIVERY:** Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.
- D. **DEFAULT:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- E. **COVENANT AGAINST CONTINGENT FEES:** Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

- F. **COST JUSTIFICATION:** In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.
- G. **WORK PRODUCT, EQUIPMENT AND MATERIALS:** All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

## 5.8. Contract Termination

- A. **GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- B. **CONDITIONS AND CAUSES FOR TERMINATION:**
  - 1. This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
  - 2. The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:
    - a. In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
    - b. In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;

- c. In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
  - d. Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
  - e. In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.
- C. CONTRACT CANCELLATION: All parties acknowledge that this contract is subject to cancellation by the City of Phoenix pursuant to the provision of Section 38-511, Arizona Revised Statutes.

### 5.9. State and Local Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in Arizona and the City of Phoenix. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. You may also find information at <https://www.phoenix.gov/finance/plt> or <https://www.azdor.gov/Business.aspx>. Once your offer is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in a offer price.

### 5.10. Tax Indemnification

Contractor will pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor, and require the same of all subcontractors. Contractor will hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

### 5.11. Tax Responsibility Qualification

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of Arizona for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in Arizona statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the Arizona State

Department of Revenue to release tax information relative to Arizona Transaction Privilege Taxes or Arizona Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

### 5.12. No Israel Boycott

If this Contract is valued at \$100,000 or more and requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, or construction, then Contractor must certify and agree that it does not and will not boycott goods or services from Israel, pursuant to Title 35, Chapter 2, Article 9 of the Arizona Revised Statutes. Provided that these statutory requirements are applicable, Contractor by entering this Contract now certifies that it is not currently engaged in, and agrees for the duration of the Contract to not engage in, a boycott of goods or services from Israel.

## 6. SPECIAL TERMS AND CONDITIONS

### 6.1. Free on Board (FOB)

Prices quoted shall be FOB destination and delivered, as required, to the following point(s): Various locations as provided in the Acceptance Criteria section

### 6.2. Price

All prices offered shall be firm and fixed for the entire term of the contract.

### 6.3. Method of Ordering

Contractor shall deliver items and/or services only upon receipt of a written purchase order. All Contractor invoices and packing/delivery tickets must include the City of Phoenix purchase order number.

### 6.4. Method of Invoicing

Invoice must be emailed in .pdf format to [invoices@phoenix.gov](mailto:invoices@phoenix.gov) and must include the following:

- City purchase order number or shopping cart number
- Items listed individually by the written description and part number.
- Unit price, extended and totaled.
- Quantity ordered, back-ordered, and shipped.
- Applicable tax
- Invoice number and date.
- Delivery address.
- Payment terms.
- FOB terms.
- Remit to address

### 6.5. Method of Payment

Payment to be made from Contractor's invoice and a copy of the signed delivery/service ticket submitted to cover items received and accepted during the billing period.

### 6.6. Partial Payments

Partial payments are not authorized on individual purchase orders. Payment will be made upon final delivery and acceptance of all goods and services on the purchase order.



## 6.7. Supplier Profile Changes

It is the responsibility of the Contractor to promptly update their profile in procurePHX at <https://www.phoenix.gov/procure>. If Contractor's legal identify has changed, the Procurement Officer must be notified immediately. Failure to do so may result in non-payment of invoices and contract termination.

## 6.8. Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within thirty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the Chief Procurement Officer prior to the institution of the change.

## 6.9. Suspensions of Work

The City reserves the right to suspend work wholly or in part if deemed necessary for the best interest of the City. This suspension will be without compensation to the Contractor, other than to adjust the contract completion/delivery requirements.

## 6.10. Hours of Work

All work under this contract shall be coordinated with the City's authorized Department representative. Any changes to the established schedule must have prior written approval by the City's authorized Department representative.

## 6.11. Post Award Conference

A post-award conference will be held prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.

## 6.12. Performance Interference

Contractor shall notify the City's authorized Department representative immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.

## 6.13. Cooperative Agreement

In addition to the City and with approval of the Contractor, this contract may be extended for use by other municipalities and government agencies in the State of Arizona.

## 6.14. Advertising

Contractor will not advertise or publish news releases concerning this contract without the prior written consent of the Chief Procurement Officer, and the City will not unreasonably withhold permission.

### 6.15. Exclusive Possession

All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the City of Phoenix and will not be used by the Contractor or any other person except with prior written permission by the City.

### 6.16. Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

### 6.17. Licenses and Permits

Contractor will keep current Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.

### 6.18. Delivery

All deliveries shall be made between the hours of 7:30 a.m. to 3:30 p.m., local time, Monday through Friday, excluding City holidays.

### 6.19. Miscellaneous Fees

Additional charges for fuel surcharges, delivery charges, dealer prep, environmental fees, waste disposal, shop supplies, set-up, freight and/or shipping and handling, etc. will not be paid. These costs must be incorporated in the pricing provided in the bid price schedule.

Labor rates (Shop and On-site) shall be charged as a flat hourly rate and are allowed only in performance of services under this agreement. Travel hours and other incidental fees will not be permitted under this agreement. Labor hours will be from "check-in" to "check-out" at the worksite.

### 6.20. Procurement Reports

Contractor shall submit quarterly reports in an electronic format acceptable to the City during the term of this contract commencing one month after the effective date. These reports are due by 1st day of the month following the reporting period. Total purchases for each department must be shown on a separate line. Report should be rounded to the nearest dollar. Contractor will provide sample forms for approval by the City.

### 6.21. Inventory Levels

Contractor's inventory levels of the items may be a factor in the City's award decision. Contractor will be required to maintain sufficient local inventory to provide daily support of the City's requirement. Failure to supply sufficient support may result in cancellation of the contract.

### 6.22. Communication in English

It is mandatory that the Contractor's lead person assigned to any City facility can speak, read, and write in English to effectively communicate with City staff.

### 6.23. Transition of Contract

Contractor will, without limitation, provide important information to a successor Contractor and the City to ensure continuity of service at the required level of proficiency and agrees to provide to the City all files, supplies, data, records, and any other properties or materials of the City, which the City owns or has rights to pursuant to this contract and which are in the possession of Contractor. The provisions of this section will survive the expiration or termination of this contract.

## 7. TECHNOLOGY SPECIAL TERMS & CONDITIONS

### 7.1. Intellectual Property Rights

Contractor grants to City a nonexclusive, non-transferable (except to a wholly-owned subsidiary of the City), and royalty-free right and license to install, use, and maintain the software, application(s), or similar technology to be provided to the City pursuant to this agreement (collectively, the “Deliverables”) for the City’s internal or business purposes. The City shall further have the right to reproduce the Deliverables to the extent reasonably necessary for such purposes. The City shall not, without the Contractor’s prior written consent, transfer or sub-license its foregoing license rights (except to a wholly-owned subsidiary of the City) or reverse engineer, decompile, or otherwise attempt to derive source code from the Deliverables.

### 7.2. Standards and Practices

Technology Assets shall conform to the generally accepted standards and practices of the trade or industry involved. All work shall be executed by personnel skilled in their respective lines of work.

### 7.3. Qualifications

Contractor represents that it is fully experienced and properly qualified; is in compliance with all applicable license requirements; and, is equipped, organized, and financed to provide and/or perform the goods and/or services purchased by the City pursuant to this agreement.

### 7.4. Intellectual Property Warranties

Contractor warrants that:

- A. The Technology Assets will be free of the rightful claim of any third party for or by way of infringement or misappropriation of patent, copyright, trade secret, trademark or other rights arising under the laws of the United States;
- B. No act or omission of Contractor will result in a third party holding any other claim that interferes with the City’s enjoyment or use of the Technology Assets;
- C. Contractor owns or possesses all right(s), title(s) and license(s) necessary to perform its obligations hereunder; and
- D. As of the effective date and throughout the term of this Agreement, Contractor has not conveyed and will not convey any rights or licenses to any third party regarding the Technology Assets, except to the extent the Technology Assets consist of commercial-off-the-shelf or similar software product(s).

### 7.5. Indemnification - Patent, Copyright and Trademark

In addition to any other indemnification required by this Agreement, Contractor agrees to defend, at its own expense, and to indemnify and hold harmless the City and its officers, agents, and employees from and against all judgments, claims, damages, suits, liabilities, settlements, costs and demands, including reasonable attorneys’ fees, suffered or incurred by the City as a result of any claim that the Technology

Assets infringe the patents, copyrights, or other intellectual property rights of third parties, provided that Contractor is notified in writing of such claim. The City will reasonably cooperate with Contractor, at Contractor's expense, to facilitate the settlement or defense of such claim. Without limiting in any way the Contractor obligations set forth herein, if, as a result of any claim of infringement with respect to the Technology Assets, the City is enjoined from using the Technology Assets, or if Contractor reasonably believes that the Technology Assets are likely to become the subject of a claim of infringement, Contractor may, at Contractor's option and expense, (1) procure the right for the City to continue to use the Technology Assets, or (2) replace or modify the Technology Assets so as to make them non-infringing and of equal or superior functionality and capability for the purpose(s) for which the Technology Assets were provided.

The Contractor's obligation to indemnify, defend, and hold harmless the City pursuant to this subsection shall be reduced to the extent the applicable infringement is caused or alleged to be caused by the alteration or modification of the Technology Assets by the City (including its employees and contractors other than the Contractor and its subcontractors) other than in connection with the ordinary or expected use of the Technology Assets.

## 8. DEFENSE AND INDEMNIFICATION

### 8.1. Standard General Defense and Indemnification

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnitee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Indemnitor or Indemnitor’s Agents for the City of Phoenix. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

### 8.2. Technology Software and Hardware Contracts

#### INDEMNIFICATION – PATENT, COPYRIGHT AND TRADEMARK

In addition to any other indemnification required by this Agreement, Contractor agrees to defend, at its own expense, and to indemnify and hold harmless the City and its officers, agents, and employees from and against all judgments, claims, damages, suits, liabilities, settlements, costs and demands, including reasonable attorneys’ fees, suffered or incurred by the City as a result of any claim that the Technology Assets infringe the patents, copyrights, or other intellectual property rights of third parties, provided that Contractor is notified in writing of such claim. The City will reasonably cooperate with Contractor, at Contractor’s expense, to facilitate the settlement or defense of such claim. Without limiting in any way the Contractor obligations set forth herein, if, as a result of any claim of infringement with respect to the Technology Assets, the City is enjoined from using the Technology Assets, or if Contractor reasonably believes that the Technology Assets are likely to become the subject of a claim of infringement, Contractor may, at Contractor’s option and expense, (1) procure the right for the City to continue to use the Technology Assets, or (2) replace or modify the Technology Assets so as to make them non-infringing and of equal or superior functionality and capability for the purpose(s) for which the Technology Assets were provided.

The Contractor’s obligation to indemnify, defend, and hold harmless the City pursuant to this subsection shall be reduced to the extent the applicable infringement is caused or alleged to be caused by the

alteration or modification of the Technology Assets by the City (including its employees and contractors other than the Contractor and its subcontractors) other than in connection with the ordinary or expected use of the Technology Assets.

## 9. INSURANCE REQUIREMENTS

### 9.1. Vendor's Insurance

Vendor must procure insurance against claims that may arise from or relate to performance of the work hereunder by Vendor and its agents, representatives, employees and subcontractors. Vendor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this section are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this Contract by the Vendor, its agents, representatives, employees or subcontractors and Vendor may purchase additional insurance as they determine necessary.

### 9.2. Scope and Limits of Insurance

Vendor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a "following form" basis, and (2) all terms under each line of coverage below are met.

### 9.3. Commercial General Liability – Occurrence Form

General Aggregate \$2,000,000

Products – Completed Operations Aggregate \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

- The Vendor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

### 9.4. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability:

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

- Policy must contain a waiver of subrogation against the City of Phoenix.
- This requirement does not apply when a Vendor is exempt under A.R.S. §23-902(E), **AND** when such Vendor executes the appropriate sole proprietor waiver form.

### 9.5. Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Vendor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or canceled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Phoenix, Finance Department



- Central Procurement Division, 251 W Washington St, 8th Floor, Phoenix, AZ 85003, or via email at procurement@phoenix.gov.

## 9.6. Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Vendor from potential insurer insolvency.

## 9.7. Verification of Coverage

Vendor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be sent directly to the City of Phoenix, Finance Department - Central Procurement Division, 251 W Washington St, 8th Floor, Phoenix, AZ 85003, or via email at procurement@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

## 9.8. Approval

Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed contract amendment.

## 10. SUBMITTALS

### 10.1. Copies

Please submit one original, one copies, and one electronic copy (portable drive or CD) of the Submittal Section and all other required documentation. Please do not lock the electronic copy with password protection so that the CITY may digitally incorporate the successful offer into the awarded contract.

**Please submit only the Submittal Section, do not submit a copy of the entire solicitation document.**

This offer will remain in effect for a period of 180 calendar days from the opening date, and is irrevocable unless it is in the City's best interest to release offer(s).

### 10.2. Offer Submittal Format

The written offer should be:

- Typewritten for ease of evaluation;
- Signed by an authorized representative of the Offeror;
- Submitted with contact information for the individual(s) authorized to negotiate with the City;
- Submitted in a binder, preferably using double-sided copying and at least 30% post-consumer content paper;
- Submitted with a table of contents and tabbed per the following major sections:

Tab 1 Proposal materials responsive to Qualification Criteria in Section 4.0

Tab 2 Attachment S - Bid Discount Schedule

Tab 3 Submittal Forms - Attachments T, V, W, and Y

Tab 4 Signed Addenda

### 10.3. Additional Quantities

#### **OPTION FOR ADDITIONAL QUANTITIES AND PRODUCTS:**

The City anticipates considerable activity under the resultant contract(s). However, no guarantee can be made as to the actual quantities of materials or services that will be purchased under this contract. The City reserves the right to add, change or delete quantities or items as circumstances may require.

### 10.4. Discounts

All discounts offered shall be firm and fixed for the specified contract period. Discounts offered must be expressed as a single percentage (%) figure for each contract item. Offers containing chain or multiple discounts may be considered non-responsive.

## 11. VENDOR QUESTIONNAIRE

### 11.1. SOLICITATION RESPONSE CHECK LIST

Check off each of the following as the necessary action is completed.

#### 11.1.1. *Forms*

All forms have been completed and signed, including Solicitation Disclosure form.

Please confirm

#### 11.1.2. *Submittals*

Confirm the submittal includes:

- Proposal materials responsive to Qualification Criteria in Section 4.0
- Attachment S - Bid Discount and Price Schedule
- Attachment T - Submittals Conflict of Interest Form
- Attachment V - Submittals - Debarment & Exclusion
- Attachment W - Submittals - Offer Page
- Attachment Y - Submittals - References

Please confirm

#### 11.1.3. *Attachment S - Bid Discount Schedule*

Reviewed and verified discounts offered in Bid Discount Schedule.

Please confirm

#### 11.1.4. *Drawings or Literature*

Included any required drawings or descriptive literature

Please confirm

#### 11.1.5. *Insurance*

Reviewed the insurance requirements, if any, to assure compliance

Please confirm

#### 11.1.6. *Copies*

Included the specified number of copies of the offer as indicated in Submittal section

Please confirm

#### 11.1.7. *Addenda*

Included signed addenda, if any

Please confirm

#### *11.1.8. Envelope*

Addressed the mailing envelope to the Procurement Officer on the solicitation front page, at the address listed.

Please confirm

#### *11.1.9. Envelope Details*

The mailing envelope clearly shows your company name and address, the solicitation number, solicitation title and the offer opening date.

Please confirm

#### *11.1.10. Submitted Timely Response*

Mailed the response in time – City must receive offers no later than the date and time indicated in the Schedule of Events or addenda.

Please confirm



**City of Phoenix**

FINANCE DEPARTMENT ♦ PROCUREMENT DIVISION

**SUBMITTALS**

**CONFLICT OF INTEREST AND TRANSPARENCY FORM**

This form must be signed and submitted to the City and all questions must be answered (or N/A) or your Offer may be considered non-responsive.

1. Name of person submitting this disclosure form:
2. Solicitation / Contract Name and Number
3. Name of individual(s) or entity(ies) seeking a contract with the City (i.e. parties to the Contract)
4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture, or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.
5. List any individuals or entities that will be subcontractors on this contract or indicate N/A.
Subcontractors may be retained, but not known as of the time of this submission. List of subcontracts, including the name of the owner(s) and business name:
6. List any attorney, lobbyist, or consultant retained by any individuals listed in Questions 3, 4 or 5 assist in the proposal or seeking the resulting contract. If none, indicate N/A.

## 7. Disclosure of Conflict of Interest

### A. City Code Section 43-34

Are you aware of any fact(s) with regard to this solicitation or resulting contract that would raise a “conflict of interest” issue under City Code Section 43-34?

“An elected City official or a City employee shall not represent any person or business for compensation before the City regarding any part of a procurement, including any resulting contract, if during the time the elected official is or was in office or the employee is or was employed by the City such elected official or employee played a material or significant role in the development of the solicitation, any other part of the procurement, or the contract award.”

I am not aware of any conflict(s) of interest under City Code Section 43-34.

I am aware of the following potential or actual conflict(s) of interest:

B. Arizona Revised Statutes (A.R.S.) Sections 38-501 et. Seq. & City Charter Chapter 11

State law and the Phoenix City Charter and Code prohibit public officers or employees, their close relatives, and any businesses they, or their relatives, own from (1) representing before the City any person or business for compensation, (2) doing business with the City by any means other than through a formal procurement, and (3) doing business with the City without disclosing that the person has an interest in the contract. This prohibition extends to subcontracts on City contracts and also applies to parent, subsidiary, or partner businesses owned by a public officer or employee. See A.R.S. Sections 38-501 through 38-511, for more information (City Charter, Chapter 11, applies the state conflict-of-interest law to City employees).

Please note that any contract in place at the time a person becomes a public officer or employee may remain in effect. But the contract may not be amended, extended, modified, or changed in any manner during the officer's or employee's city service without following city administrative regulations.

Are you aware of any fact(s) with regard to this contract that would raise a "conflict of interest" issue under A.R.S. Sections 38-501 through 38-511 (See A.R.S. of interest at [www.azleg.gov](http://www.azleg.gov)).

I am not aware of any conflict(s) of interest under A.R.S. Sections 38-501 through 38-511.

I am aware of the following conflict(s) of interest:

**8. Acknowledgments**

**A. Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation**

I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.

This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to **disqualification**.

**B. Fraud Prevention and Reporting Policy**

I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to telephone no. 602-261-8999 or 602-534-5500 (TDD); or via email to [aud.integrity.line@phoenix.gov](mailto:aud.integrity.line@phoenix.gov).

The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud.

**OATH**

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within thirty (30) days of such changes. Failure to do so may be deemed a breach of contract.

Company (Corporation, LLC) Name and DBA (if applicable)

Print Name Title

Signature Date





**City of Phoenix**

FINANCE DEPARTMENT ♦ PROCUREMENT DIVISION

**SUBMITTALS**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
INELIGIBILITY AND VOLUNTARY EXCLUSION**

The prospective participant (Contractor for a federally funded project) certifies, by submission of this solicitation and certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. Where the prospective participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this solicitation.

THE PARTICIPANT (Contractor for a federally funded project), CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. 3801 ET SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
Authorized Official Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
Date



City of Phoenix

FINANCE DEPARTMENT ♦ PROCUREMENT DIVISION

SUBMITTALS

OFFER

TO THE CITY OF PHOENIX - The Undersigned hereby offers and agrees to furnish the material and or service(s) in compliance with all terms, conditions, specifications, and addenda issued as a result of a solicitation.

Arizona Sales Tax No. \_\_\_\_\_
Use Tax No. for Out-of State Suppliers \_\_\_\_\_
City of Phoenix Sales Tax No. \_\_\_\_\_
Arizona Corporation Commission File No. \_\_\_\_\_

Taxpayer's Federal Identification No.: If recommended for contract award, Bidder agrees to provide its federal taxpayer identification number or as applicable its social security number to the City of Phoenix for the purposes of reporting to appropriate taxing authorities, monies paid by the City of Phoenix under the awarded contract. If the Bidder provides its social security number, the City will only share this number with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

Enter City's Registration System ID Number
Located at City's eProcurement website (see SECTION I - INSTRUCTIONS - CITY'S REGISTRATION)

Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name and Title (President, Manager, Member) \_\_\_\_\_ Offeror Legal Name and Company Type (LLC, Inc, Sole Proprietor) \_\_\_\_\_

Address \_\_\_\_\_
City, State and Zip Code \_\_\_\_\_
Telephone Number \_\_\_\_\_
Email Address \_\_\_\_\_



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SUBMITTALS

**YEARS IN BUSINESS AND REFERENCES**

Contractor certifies that they have provided \_\_\_\_\_ listed in this solicitation for a period of one year.

Contractor shall furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations for which the Contractor is currently furnishing or has furnished, the goods and/or services.

Company Name	_____
Address	_____
Reference	_____
Telephone number	_____
Email address	_____

Company Name	_____
Address	_____
Reference	_____
Telephone number	_____
Email address	_____

Company Name	_____
Address	_____
Reference	_____
Telephone number	_____
Email address	_____