



City of Phoenix

INVITATION FOR BID  
25-SW-003  
DEAD ANIMAL COLLECTION

City of Phoenix  
Public Works  
200 W Washington St  
7th Floor  
Phoenix, AZ  
85003

RELEASE DATE: July 17, 2024

DEADLINE FOR QUESTIONS: August 7, 2024

RESPONSE DEADLINE: August 14, 2024, 11:00 am

City of Phoenix  
INVITATION FOR BID  
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DEAD ANIMAL COLLECTION

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V - Submittals - Costs and Payments

# 1. Introduction

## 1.1. Summary

Contractor shall remove dead animals, including but not limited to: domestic and farm animals and wildlife from any street, alley, right-of-way, easement, vacant lot, field, small ditch or other approved property within the City limits of the City of Phoenix as described in this document.

Phoenix will take responsibility for the dead animal collection to the west right-of-way on all boundaries running north and south between Phoenix and Glendale. Glendale will take responsibility for dead animal collection to the south right-of-way on all boundaries running east and west between Phoenix and Glendale.

Contractor shall remove spoiled meat in original packaging, plastic bags, or leak proof containers which have been placed in/at the right-of-way, as directed by designated City staff or in accordance with the specifications and provisions contained in this document.

## 1.2. Contact Information

**Sean Wulfekule**

Contracts Specialist II \*Lead

200 W Washington St

7th Floor

Phoenix, AZ 85003

Email: [sean.wulfekuhle@phoenix.gov](mailto:sean.wulfekuhle@phoenix.gov)

Phone: [\(602\) 534-0095](tel:(602)534-0095)

**Department:**

Public Works

## 1.3. Timeline

### Schedule of Events

The City reserves the right to change dates, times, and locations, as necessary. The City does not always hold a Pre-Offer Conference or Site Visit.

To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer (Sean Wulfekule) at (602) 534-0095/Voice or 711/TTY, or [sean.wulfekuhle@phoenix.gov](mailto:sean.wulfekuhle@phoenix.gov), no later than two (2) weeks prior to the meeting.

<b>Solicitation Issue Date</b>	July 17, 2024
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<b>Pre-Offer Conference (Non-Mandatory)</b>	July 31, 2024, 9:00am <a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MThhYTc1NDMtZWQ3Mi00MTVILTgwM2EtNTJhOTdmNWUwYWQ5%40thread.v2/0?context=%7b%22Tid%22%3a%2296b9695c-4f0e-42bd-8adf-ba755760346b%22%2c%22Oid%22%3a%226a42fd8b-ef0e-4ba7-9d5a-a76b0fb490dc%22%7d">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MThhYTc1NDMtZWQ3Mi00MTVILTgwM2EtNTJhOTdmNWUwYWQ5%40thread.v2/0?context=%7b%22Tid%22%3a%2296b9695c-4f0e-42bd-8adf-ba755760346b%22%2c%22Oid%22%3a%226a42fd8b-ef0e-4ba7-9d5a-a76b0fb490dc%22%7d</a>
<b>Written Inquiries Due Date</b>	August 7, 2024, 11:00am
<b>Offer Due Date</b>	August 14, 2024, 11:00am

## 2. Instructions

### 2.1. Description – Statement of Need

The City of Phoenix invites sealed offers for Contractor shall remove dead animals, including but not limited to: domestic and farm animals and wildlife from any street, alley, right-of-way, easement, vacant lot, field, small ditch or other approved property within the City limits of the City of Phoenix for a three-year term, with two option years commencing on or about October 1, 2024, 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.

#### **<Describe why service or commodity is needed>**

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

Vendors 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 Conflict of Interest and Transparency 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.

## 2.5. 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, Public Works Department, 200 W. Washington Street, 7th Floor, Phoenix, AZ 85003. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their Offer.

## 2.6. 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.

## 2.7. 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.

## 2.8. 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.

## 2.9. 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.

## 2.10. 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.

## 2.11. Certifications

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.

## 2.12. 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.

## 2.13. 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 business 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.

## 2.14. Pre-Award Qualifications

Offeror must have been in operation a minimum of 2 years. The Offeror's normal business activity during the past 2 years will have been for providing the goods or services in this solicitation.

Upon notification of an intent to award, the Offeror will have ten calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this agreement. Insurance requirements are non-negotiable.

## 2.15. 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.

## 2.16. 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.

## 2.17. 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.

## 2.18. 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.

## 2.19. 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 a late Offer.

## 2.20. 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 Offer 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.

## 2.21. Contract Award

In accordance with the City of Phoenix Code, Chapter 43, Section 43-12, Competitive Sealed Bidding, award(s) shall be made to the lowest responsible and responsive offeror(s) whose offer conforms in all material respects to the requirements set forth in this solicitation. 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.

## 2.22. Determining Responsiveness and Responsibility

Offers will be reviewed for documentation of any required minimum qualifications, and 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 will render an Offer nonresponsive.

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

## 2.23. Equal Low Offer

Contract award will be made by putting the names of the tied Offerors in a cup for a blind drawing limited to those bidders with tied Offers. If time permits, the Offerors involved will be given an opportunity to attend the drawing. The drawing will be witnessed by at least three persons, and the contract file will contain the names and addresses of the witnesses.

### **3. Scope of Work**

#### **3.1. Scope**

Contractor shall provide all labor, material, equipment, vehicles, scanners and supplies necessary to perform dead animal collection services for the City of Phoenix, on an "as needed" basis, in accordance with the provisions, conditions, and specifications contained herein.

#### **3.2. Locations**

Contractor shall remove dead animals, including but not limited to: domestic and farm animals and wildlife from any street, alley, right-of-way, easement, vacant lot, field, small ditch or other approved property within the City limits of the City of Phoenix as described in this IFB document.

#### **3.3. Boundaries**

Phoenix will take responsibility for the dead animal collection to the west right-of-way on all boundaries running north and south between Phoenix and Glendale. Glendale will take responsibility for dead animal collection to the south right-of-way on all boundaries running east and west between Phoenix and Glendale.

#### **3.4. Spoiled Meat**

Contractor shall remove spoiled meat in original packaging, plastic bags, or leak proof containers which have been placed in/at the right-of-way, as directed by designated City staff or in accordance with the specifications and provisions contained in this IFB document.

#### **3.5. In Route of Dispatch**

During the course of the workday, Contractor shall remove unreported dead animal(s) from locations specified in Section V, item 1.1, that meet the regular pick-up requirements defined in the contract.

#### **3.6. Collected Materials Disposal**

Contractor shall dispose of all animals, animal parts, or spoiled meat (Collected Materials) collected at designated City of Phoenix disposal sites according to established procedures. The current disposal sites are North Gateway Transfer Station, located at 30205 N. Black Canyon Hwy, Phoenix, AZ 85085 and 27<sup>th</sup> Avenue Solid Waste Management Facility at 3060 S 27th Ave, Phoenix, AZ 85009. The City shall provide an appropriate area for the Contractor to dispose of the animal carcass.

- A. Contractor shall not be required to pay a Solid Waste Disposal Fee for animals collected in the City of Phoenix, under the resulting contract.
- B. Contractor shall install/use a City RFID tag on all collection vehicles used to collect dead animals under the agreement, to be read by City transfer station facilities scales.
- C. All collected materials brought into the transfer station shall be bagged. Very large animals shall be covered with tarp(s) at all times.

- D. Contractor must coordinate all disposal activities and schedules with City of Phoenix Deputy Public Works Director or City Contract Representative.

#### **North Gateway Transfer Station**

Superintendent: Robert Van Note

Phone: (602)534-6659

Email: robert.vannote@phoenix.gov

#### **27<sup>th</sup> Avenue Solid Waste Management Facility**

Superintendent: Ashley Peck

Phone: (602)261-8998

Email: ashley.peck@phoenix.gov

E. Contractor will have access to City transfer stations twenty-four hours per day to deposit dead animals.

F. Contact Arizona Game & Fish Department if there are any suspicious or unusual circumstances associated with any wildlife collected. The Law Enforcement Program Manager can be contacted at (602) 942-3000.

### **3.7. Telephone Call-in Schedule**

- A. Contractor shall monitor the designated City hotline for dead animal pick-up. The phone number is 602-262-6791. Contractor responsiveness to this hotline may be electronically monitored by the City.
  - 1. Contractor must call, a minimum of once every one-half (1/2) hour, from 6:00 a.m. to 9:00 a.m. and once every one-half (1/2) hour from 3:00 p.m. to 6:00 p.m. to receive a list of requested pick-ups and to report any animals which the Contractor could not locate. Contractor must call a minimum of once every one (1) hour from 9:00 a.m. to 3:00 p.m. to receive a list of requested pick-ups and to report any animals, which the Contractor could not locate.
  - 2. Calls from citizens concerned about the untimely response by the Contractor will be reported by Public Works to the Contractor for immediate action. The City shall have the immediate right to complete the work through the use of City employees or outside contractors as deemed necessary and deduct the amount necessary to recover costs from any monies that are or may become due to the Contractor.

### **3.8. Response Time**

- A. Routine: Contractor must remove all subject matter within four (4) hours of notification by the City Contract Representative(s). If the Contractor fails to remove the subject matter after a second notification, the City shall have the immediate right to complete the work through the use of City employees or outside contractors as deemed necessary. The

City shall deduct the amount necessary to recover costs from any monies that are or that may become due to the Contractor.

- B. Follow-up – When animal cannot be located, Contractor must call and inform customer. Contractor must also inform customer when a request cannot be completed within a 24-hour time frame. If no contact is made, a voicemail should be left with customer.
- C. Emergencies: Contractor shall provide immediate response to emergencies, road hazards, police situations, and/or other situations defined as an emergency by the City Contract Representative within one (1) hour of notification from designated staff.
  - 1. Emergency telephone: Contractor shall provide and maintain a telephone answering system with twenty-four (24) hours a day, seven (7) days a week service, capable of contacting and dispatching service personnel within thirty (30) minutes.

### 3.9. Refuse Containers

- A. Contractor may be required to remove animals weighing less than 50 pounds from 90, 100 or 300-gallon refuse containers if the animal can be easily reached from the top of the container. Contractor will not be required to sift through refuse.

### 3.10. Vehicles

- A. Identification: Contractor vehicles shall be visibly labeled with contractor's company name, address, and local office phone number.
- B. Appearance: Vehicles must be maintained in good repair, appearance, and condition at all times. The City reserves the right to inspect the Contractor's vehicles at any time to ascertain said condition.
- C. Operator: Contractor service representative must be equipped to receive radio or telephone messages.

### 3.11. Tagged Animals

- A. Contractor shall contact the appropriate agency or the owner, stamped on the tag and provide the tag number and other pertinent information such as type of animal, size color, weight, and location of pick up. In the event of citizen calls to the agency, information will be disseminated to citizens according to agency's policies and procedures. The City is not responsible for other agencies policies, procedures and practices.
  - 1. Contractor shall remove tags from carcasses before disposing of the remains. The tags removed from the animal remains shall be recorded and retained by the Contractor for sixty (60) days.
  - 2. Contractor shall respond to direct inquiries from City staff or the general public concerning animals collected or tags recovered within twenty-four (24) hours from

initial request. Contractor shall make animal collection records more than five (5) days old available to citizens.

### 3.12. Untagged Animals

- A. Contractor shall record the type of animal, color, weight or size, and the location of the pick-up. This information shall be recorded on the daily log sheets (Section IV, 1.14), used to respond to citizen inquiries for lost pets, and submitted to the City Contract Representative monthly.

### 3.13. Scanning Animals

- A. Contractor shall provide the necessary equipment to scan all animals for embedded chips or other electronic devices at time of pick-up. The Contractor shall log the location of the animal and will scan the animal for a chip.
  - 1. Contractor will contact the relevant manufacturer of the chip or device to obtain identification information.
  - 2. Contractor will attempt to make contact with the registered owner if information is available.
  - 3. Contractor will record this information on the daily log sheets and submit them to the City on a monthly basis

### 3.14. Lost Animal

- A. Contractor may utilize a recorded information line to provide immediate citizen assistance provided there is a method for the citizen to leave a message. All citizens shall be contacted within twenty-four (24) hours of their inquiry.

### 3.15. Log Sheets

- A. Contractor shall be responsible for providing daily log sheets to its drivers for the purpose of recording animal pick-ups. Information to include: location, non-reported pick ups, animal descriptions including type of animal, weight, color, tag, chip or electronic device, time the call was received and time of pick-up.
  - 1. **Daily Log – Exhibit A**

### 3.16. Monthly Reports

- A. Contractor shall submit monthly reports in an electronic format acceptable to the City during the term of this contract and any extensions commencing one (1) month after start period. These reports are due by the 20th day of the following month.
  - 1. **Daily Log Exhibit A – Monthly report** to include details of pick-up. Report must include all information listed on the example daily log.



2. **Monthly Report 2 - Exhibit B** – Monthly report to reflect total number of animals deposited at transfer station for the month and identify each trip to City transfer station by date, and time.

### 3.17. Regular Hours

- A. Calls for regular collections shall be received between 6:00 a.m. and 6:00 p.m., seven (7) days per week.

### 3.18. After Hours

Calls received between 6:01 p.m. and 5:59 a.m., seven (7) days per week.

### 3.19. Historic Data

- A. The last fifteen (15) years, pick-ups ranged between 20-30 per day, seven (7) days per week.

### 3.20. SPECIAL COLLECTIONS

- A. Special collections are dead animal and/or spoiled meat picked up from areas specified in Section V, 1.1, (City streets, sidewalks, alleys, rights-of-way or easements), with pick-up services between the hours of 6:00 p.m. and 6:00 a.m., on City of Phoenix property only. All special collections must be authorized by City staff prior to the pick-up. Payment will not be made without this prior authorization.

1. Contractor shall notify [Vanessa.Castillo@phoenix.gov](mailto:Vanessa.Castillo@phoenix.gov) of all special collection requests made by various city departments. Contractor shall e-mail notifications to [solid.waste@phoenix.gov](mailto:solid.waste@phoenix.gov). This email should include a brief description explaining the "Special circumstance" and the person's name who authorized the pickup.
2. The Contractor's documentation of special collection shall be provided with the invoice of these charges, including the following information: date, time, location and person authorizing the pickup.

### 3.21. LARGE ANIMALS

- A. Large animals are categorized as follows:
  1. Weighing 151-250 pounds
  2. Weighing over 251 pounds

### 3.22. APPLICABLE PERMITS, LAWS AND STANDARDS

- A. Contractor shall possess the permits necessary to provide services for the scope of services requested in this Invitation for Bid. Said permits must be in Contractor's possession at time of submittal, in good standing and remains valid for the duration of the contract.
- B. Contractor shall comply with all applicable State, Federal and Local laws, standards and ordinances.

## 4. Standard Terms and Conditions

### 4.1. 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 Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror 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 Offers, 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, Offers, 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.

## 4.2. 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.

#### 4.3. 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 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 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. 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.
- E. **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.
- F. **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](#).
- G. **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.
- H. **Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- I. **Facsimile or Electronic Signature:** Either or all parties may execute this Agreement by facsimile or other scanned or electronic signature, and any such facsimile or other scanned or electronic signature shall be deemed an original signature.

#### 4.4. 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 Contractor 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.

#### 4.5. 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:** If applicable, 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 Contractor 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 Contractor 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.

#### 4.6. 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.

#### 4.7. 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.

#### 4.8. 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. Contractor will not be responsible or liable for, or deemed in breach hereof because of any delay in the performance of its obligations hereunder to the extent caused by circumstances beyond its control, without its fault or negligence, and that could not have been prevented by the exercise of due diligence, including but not limited to fires, natural disasters, riots, wars, unavoidable and unforeseeable site conditions, failure of the City to provide data within the City's possession or to make necessary decisions or provide necessary comments in connection with any required reports prepared by Contractor in connection with the Services and the unforeseeable inability to obtain necessary site access, authorization, permits, licenses, certifications and approvals (such causes hereafter referred to as "Force Majeure").
- D. **Loss of Materials:** If applicable, 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:** If applicable, 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.

#### 4.9. 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 Solicitation 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.

#### 4.10. 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:
  - In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
  - In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
  - 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;
  - Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
  - In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or gives 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.

#### 4.11. Integration

This Agreement constitutes and embodies the full and complete understanding and agreement of the parties hereto and supersedes all prior understandings, agreements, discussions,

proposals, bids, negotiations, communications, and correspondence, whether oral or written. No representation, promise, inducement or statement of intention has been made by any party hereto which is not embodied in this Agreement, and no party will be bound by or liable for any statement of intention not so set forth.

#### 4.12. State and Local Transaction 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 Contractor 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>. 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 an offer price.

#### 4.13. 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.

#### 4.14. 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.

#### 4.15. 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.

#### **4.16. No Forced Labor of Ethnic Uyghurs**

If this Contract 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, goods, or construction, then pursuant to Title 35, Chapter 2, Article 10 of the Arizona Revised Statutes Contractor must certify and agree that it and any contractors, subcontractors, or suppliers it utilizes do not and will not use the forced labor of ethnic Uyghurs in the People's Republic of China or any goods or services produced by such forced labor. Provided these statutory requirements are applicable, Contractor, by entering this Contract, now certifies it is not currently engaged in, and agrees for the duration of the Contract to not engage in, (a) the use of forced labor of ethnic Uyghurs in the People's Republic of China; (b) the use of any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (c) the use of any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

#### **4.17. Advertising**

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Agreement or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Agreement shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

#### **4.18. Release of Information - Advertising and Promotion**

Contractor will not publish, release, disclose or announce to any member of the public, press, official body, or any other third party: (1) any information concerning this Agreement, the Services, or any part thereof; or (2) any documentation or the contents thereof, without the prior written consent of the City, except as required by law. The name of any site on which Services are performed will not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

#### **4.19. 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.



#### 4.20. 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 sixty 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.

## 5. Special Terms and Conditions

### 5.1. Term of Contract

The term of this Contract will commence on or about October 1, 2024, and will continue for a period of **three (3) years** thereafter. This Contract includes **two (2) one-year options** to extend the term, for an aggregate **five (5) years**, which may be exercised by the sole discretion of the City.

### 5.2. Price

All prices submitted shall be firm and fixed for the initial one-year of the contract. Thereafter, price increases will be considered annually provided the adjustments are submitted in writing with 60 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc. Price decrease requests do not require supporting documentation and are allowed at any time during the contract term.

The City will be the sole judge in determining the allowable increase amount. Price increases agreed to by any staff other than the Chief Procurement Officer are invalid. The Contractor acknowledges and agrees to repay all monies paid because of a requested price increase unless the increase was specifically approved, in writing, by the Chief Procurement Officer.

### 5.3. Background Screening

Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

### 5.4. Background Screening Risk Level

The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges.

### 5.5. Terms of This Section Applicable to all Contractor's Contracts and Subcontracts

Contractor will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.

### 5.6. Materiality of Background Screening Requirements; Indemnity

The background screening requirements are material to City's entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify and hold

harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

### 5.7. Continuing Duty; Audit

Contractor's obligations and requirements will continue throughout the entire term of this Agreement. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's records.

### 5.8. Variances and Exemptions

Contract Workers who fall under the following areas may be considered exempt from this policy:

- Federal Homeland Defense Bureau.
- Transportation Security Administration.
- Federal Aviation Administration.
- Department of Public Safety (DPS) Administration – presenting a current Level One Department of Public Safety fingerprint card.
- Arizona or other State Bars.
- Other background checks performed within the last three to five years may be approved if they fit all required criteria herein, at the City's discretion.

### 5.9. Background Screening – Standard Risk

- A. **Determined Risk Level:** The current risk level and background screening required is STANDARD RISK LEVEL
- B. **Standard Risk Level:** A standard risk background screening will be performed when the Contract Worker's work assignment will:
  - 1. require a badge or key for access to City facilities; or
  - 2. allow any access to sensitive, confidential records, personal identifying information or restricted City information; or
  - 3. allow unescorted access to City facilities during normal and non-business hours.
- C. **Requirements:** The background screening for this standard risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the state of Arizona, plus any other

jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire.

**D. Contractor Certification; City Approval of Background Screening:** Unless otherwise provided for in the Scope, Contractor will be responsible for:

1. determining whether Contract Worker(s) are disqualified from performing work for the City for standard risk level background checks; and,
2. for reviewing the results of the background check every five years; and,
3. to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
4. Submitting the list of qualified Contract Workers to the contracting department.
5. For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
6. By executing this agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current. Also, by executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all background screening requirements for the standard risk background screening, and verified legal worker status, as required.

## 5.10. Environmental Preferred Products

The City of Phoenix has adopted a Sustainable Purchasing Policy <https://www.phoenix.gov/oep/spp-about> in an effort to protect human health and the environment, reduce operating expenses, and reduce potential liability associated with the use of hazardous materials.

The chemical products selected for use in this contract shall avoid physical and health hazards by adhering to either of the following requirements:

EITHER meet the most current criteria of one of the following standards, as applicable:

- EPA's Safer Choice,
- Green Seal GS-11 (paints & coatings),
- GS-34 (cleaning/degreasing agents)
- GS-36 (commercial adhesives),
- GS-37 (institutional cleaners),
- or GS-40 (institutional floor care)

OR, meet each of the following criteria:

- (pH) greater than 2.5 and less than 12.
- Flashpoint greater than 150 degrees F
- National Fire Prevention Association (NFPA) or Hazardous Materials Identification System (HMIS) rating of 2 or less in each category.
- Maximum of 50 g/L or 5% by weight volatile organic compound (VOC) content or comply with the California Air Resources Board's maximum allowable VOC limit for consumer products (listed at California Code of Regulations 94507-94517).
- Contain no known carcinogens, reproductive toxins, persistent bioaccumulative toxins (PBTs), or ozone-depleting substances.
- Contain no hazardous waste toxins listed at 40 CFR 261.24 at concentrations that could require regulation of the material as a toxicity-characteristic hazardous waste.

The City maintains the right to request that Contractors supply certification of compliance with the above. SDS's shall be provided to the City upon request. SDS's shall be provided with the solicitation when specified in the scope of work or offer instructions.

### 5.11. Equipment / Safety

The Contractor shall be responsible for providing and for the placement of barricades, tarps, plastic, flag tape, and other safety traffic control equipment required to protect its employees, the public, surrounding areas, equipment and vehicles. The flow of vehicular traffic shall not be impeded at any time during this project. The safety of the Contractor's employees and the public is of prime concern to the City and the Contractor must take all necessary steps to assure proper safety during the performance of the Contractor.

### 5.12. Hazardous Materials Requirement SDS

Contractor shall provide a copy of the current Safety Data Sheet (SDS) for the product(s) offered. The SDS must include all chemical compounds present in concentrations greater than 0.1% for each product offered by CAS number; no "trade secret" or otherwise defined ingredients shall be accepted by the City. The Contractor shall provide required safety and health training for City employees on each product offered and for proper use, storage, and disposal, when requested by the City. The Contractor further agrees to accept returned empty containers for disposal purposes, if and when requested by the City. The cost for any requested training and disposal of used containers shall be included in the offered price for the product. The Contractor shall also accept returned product that was purchased as a result of this solicitation and for which the City no longer needs the product. Returned product will be in its original container(s), unopened, and must be returned to the Contractor at least 45 calendar days after the end of the project. All products must be labeled per 29CFR 1910.1200.

### 5.13. OSHA Laws and Regulations

**Emergency Spill Response Plan:** Contractor shall determine whether products selected could require an emergency spill response plan for any hazardous material used. If such determination is made, a plan for directing employees in proper response procedures must be submitted. At a minimum, the response plan must address the following:

- Provide a description of equipment on site available to contain and/or respond to an emergency/spill of the material.
- Notification procedures.
- Response coordination procedures between Contractor and the City.
- Provide a Site Plan showing the location of stored hazardous materials and location of spill containment/response equipment.
- Provide a description of the training provided to the Contractor employees.

**Hazardous Materials Storage and Labeling Specifications:** Contractor shall, to the satisfaction of the City of Phoenix's environmental representative, properly and safely store all hazardous materials, which shall include as a minimum, the following:

- Have a designated storage site for hazardous material, which includes secondary containment.
- Provide signage approved by the City of Phoenix's environmental representative clearly identifying the hazardous materials storage site. Signage must be in language understood by Contractor's on-site employees.
- All hazardous materials containers must be labeled according to OSHA requirements and bear applicable NFPA or HMIS labels.

**OSHA Guideline Compliance:** Contractor shall comply with all applicable Federal, State, City and local laws, regulations and rules including, but not limited to:

- Safety Data Sheets – Contractor shall furnish to the City's Department copies of Safety Data Sheets (SDS), or all products used, prior to beginning service in any facility. Contractor must update copies of the SDS on an annual basis. In addition, each time a new chemical or cleaning product is introduced into any facility, a copy of that product's SDS must be provided prior to the product being used in any facility. The Safety Data Sheets must be in compliance with OSHA Regulation 1910.1200, paragraph g.
- Labeling of Hazardous Materials – Contractor shall comply with the OSHA Regulation 1910.1200 paragraph f, concerning the labeling of all chemical containers
- Caution Signs – Contractor shall use caution signs as required by OSHA Regulation 1910.144 and 1910.145 at no cost to the City. Caution signs must be on-site during each scheduled cleaning.
- Blood Borne Pathogens – Contractor shall comply with OSHA Standard 29CFR 1910.1030 Blood Borne Pathogens as it pertains to the training, safety, and equipment needed for all employees engaged in contracted service. Contractor shall be responsible for compliance on date of contract acceptance and shall provide proof to the City's Department.

Proof of compliance with OSHA regulation 1910.1200, Hazard Communication, shall be provided to the City's Department, upon commencement of this Contract, and reviewed by the Department Safety Analyst for verification. Failure of the Contractor or their employees to comply with all applicable laws and rules shall permit the City to immediately terminate resultant Contract without liability.

**SDS Notebooks:** Contractor shall maintain on the site a notebook containing current (dated within the past three years or verified as most current by manufacturer) SDS for all materials being used on site, whether or not they are defined as a Hazardous Material. The notebook shall be kept in the Contractor's on-site storage area. The notebook must be kept up-to-date as materials are brought onto and removed from the site. A complete copy of the SDS notebook shall also be provided to the City. New products must be approved for use by the City by providing a copy of the product's SDS for review and approval.

**Non-Hazardous Materials Labeling Specifications:** The Contractor shall clearly label all packaged products, whether or not they are classified as Hazardous Materials under this Section. If any such unlabeled containers are discovered on the Site, the City's environmental representative will notify the Contractor and Contractor will within one hour clearly label the container or remove it from the site. Any containers that are filled from larger containers must also be labeled.

**Offsite Storage of Hazardous Materials:** The City encourages storage of hazardous materials off site until the materials are needed on site. Solvent based strippers and cleaners will NOT be stored on City property.

**Hazardous Materials Management Program Documentation:** The Contractor shall make all required documentation available immediately upon request of the City's environmental representative. The Contractor shall also provide the City's environmental representative with copies of all permits obtained from environmental regulatory agencies.

**Contractor Training Requirements:** The Contractor shall provide requested copies of the company's written Hazardous Communications Program to the City of Phoenix that satisfies requirements listed under sections e, f, g, and h of 29 CFR 1910.1200, Hazard Communications. The Contractor must demonstrate how employees are trained in the proper use, storage, and disposal of chemical products and wastes in a language understood by the Contractor's on-site employees.

## 5.14. Recovered Materials

The Resource Conservation and Recovery Act (RCRA), section 6002, requires the Environmental Protection Agency (EPA) to designate items ("designated items") that are or can be made with recovered materials. If the City uses at least a portion of federal funds to purchase over \$10,000 worth of a designated item in a given year, the City must purchase the item containing the highest percentage of recovered materials practicable. Contractors can refer to the EPA's Comprehensive Procurement Guide (CPG) for product specifications found at 40 CFR 247 or [www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program](http://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program).

## 5.15. Title

All documents including but not limited to artwork, copy, posters, billboards, photographs, video tapes, audio tapes, systems designs, drawings, estimates, field notes, investigations, software, reports, diagrams, surveys, analyses, studies or any other original works of authorship created by Contractor in the performance of this Agreement are to be and remain “works for hire” under Title 17, United States Code, and the property of the City and all copyright ownership and authorship rights in the work(s) shall belong to the City pursuant to 17 U.S.C. § 201(b). In the event that the work(s) that is/are the subject matter of this Agreement is deemed to not be work for hire, then Contractor hereby assigns to the City all of the right, title and interest for the entire world in and to the work(s) and the copyright therein. Contractor agrees to cooperate and execute additional documents reasonably necessary to conform to its obligations under this paragraph.

All documents, together with all unused materials supplied by the City, are to be delivered to the City upon termination of this Agreement before the final payment is made to Contractor.



## **6. Defense and Indemnification**

### **6.1. 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.

## **7. Insurance Requirements**

### **7.1. Consultant's Insurance**

Consultant and subconsultants must procure insurance against claims that may arise from or relate to performance of the work hereunder by Consultant and its agents, representatives, employees and subconsultants. Consultant and subconsultants 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 Consultant from liabilities that might arise out of the performance of the work under this Contract by the Consultant, its agents, representatives, employees, or subconsultants and Consultant may purchase additional insurance as they determined necessary.

### **7.2. Scope and Limits of Insurance**

Consultant 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.

### **7.3. 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 policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Consultant related to this Contract.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Consultant.
- The Consultant's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

### **7.4. Automobile Liability**

Bodily Injury and Property Damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Consultant, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Consultant.
- The Consultant's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

## 7.5. 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 consultant or subconsultant is exempt under A.R.S. §23-902(E), **AND** when such consultant or subconsultant executes the appropriate sole proprietor waiver form.

## 7.6. Professional Liability (Errors and Omissions Liability)

Each Claim \$1,000,000

Annual Aggregate \$1,000,000

- The policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those services as defined in the Scope of Services of this Contract.
- Consultant warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

## 7.7. Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Consultant must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to [procurement@phoenix.gov](mailto:procurement@phoenix.gov).

## 7.8. 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 Consultant from potential insurer insolvency.

## 7.9. Subconsultants

Consultant's certificates shall include all subconsultants as additional insureds under its policies **OR** Consultant shall be responsible for ensuring and verifying that all subconsultants have valid and collectable insurance. At any time throughout the life of the contract, the City of Phoenix reserves the right to require proof from the Consultant that its subconsultants have insurance coverage. All subconsultants providing services included under this Contract's Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Consultant may, on behalf of its subconsultants, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Consultant assumes liability for all subconsultants with respect to this Contract.

## 7.10. Approval

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

## 8. Submittals

### 8.1. Copies

#### **For In-Person and Carrier Delivery**

If submitting a hardcopy offer to the City, please submit one original, 1 copy, and one electronic copy (portable thumb drive) of the Submittal Section and addenda(s). Please include updated W-9, a sample invoice and all other required documentation.

#### **For Electronic Submittal via email**

If submitting an electronic offer to the City via email, please submit one copy of the Submittal Section and addenda(s). Please include an updated W-9, a sample invoice and all other required documentation.

**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).

**Please DO NOT submit links to Google Docs, Dropbox Paper, or similar services. Your offer may be deemed non-responsive if your offer is supplied utilizing these services.**

#### **Additional required documentation to be included with submittal:**

Offeror will submit documentation on the below items for employees who will be providing services under any resulting contract:

#### **• List certifications required**

### 8.2. Solicitation Response Check List

Use this check list as a tool to review your submission to ensure that all required documents and forms are included.

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
- A. Offeror's Proposal - A detailed proposal describing the firm or individual's qualifications and experience responsive to the requirements of the solicitation and evaluation criteria.
- B. Pricing Proposal - A completed pricing proposal with all requested prices, quantities, and/or discounts completed.
- C. Submittal Forms - All submittal forms are completed and signed.
- D. Addenda - Signed copies of all published addenda.

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. Electronic submission is preferred. Due to file size limitations for electronic transmission, 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 is received timely and that there are no technical reasons for delay. Please refer to the Instructions Section for complete information regarding the submission of offers.

### 8.3. Additional Quantities

By signing and submitting this solicitation, Offeror agrees that the City may, at any time prior to N/A, purchase additional quantities up to and including 100 percent of the quantities specified at these solicitation prices and conforming to solicitation specifications.

**OR**

The City anticipates considerable activity under the resultant contract(s). However, no guarantee can be made as to actual Contractor shall remove dead animals, including but not limited to: domestic and farm animals and wildlife from any street, alley, right-of-way, easement, vacant lot, field, small ditch or other approved property within the City limits of the City of Phoenix , that will be purchased under this contract. The City reserves the right to add, change or delete quantities or items as circumstances may require.

Note: Offers taking exception to this option for additional quantities clause shall indicate in their offer.

