



City of Phoenix

INVITATION FOR BID

IFB-2425-WAD-648

LANDSCAPING MAINTENANCE

Rev. 1 – 08.23.24

City of Phoenix

Water Services

200 W Washington St

9th Floor

Phoenix, AZ

85003

RELEASE DATE: August 2, 2024

DEADLINE FOR QUESTIONS: August 20, 2024

RESPONSE DEADLINE: August 30, 2024, 1:00 pm

City of Phoenix
INVITATION FOR BID
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Landscaping Maintenance

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EXHIBIT 1 - Service Compliance Standards

EXHIBIT 2 - Water Conservation Guidelines

EXHIBIT 3 – Seasonal Landscape Watering Guidelines

EXHIBIT 4 - Landscaping Sample schedule

EXHIBIT 5 – Performance Record

EXHIBIT 6 - Corrective Action Timeframes

EXHIBIT 7 – Monthly Water Budgets

EXHIBIT 8 - ANSI 300- Pruning Standards

A - Submittals - Conflict of Interest and Transparency rev 2-2023

B - Submittals - 24 Hour Emergency Contact rev 2-2023.

C - Submittals - Costs and Payments rev 2-2023

D - Submittals - Offer Page rev 3-2023

E - Acceptance_Form_2024

F – Bid Price Proposal

G - References

1. Introduction

1.1. Summary

The City of Phoenix and the Water Services Department is soliciting for landscape Contractor(s) for the performance of landscape maintenance services. The Contractor will be performing routine, project-related, and emergency grounds and landscape maintenance services for more than 400 water budgeted properties owned, operated, and maintained by various City owned water services division sites.

1.2. Contact Information

Aide Acedo

Contract Specialist II - Lead
200 W Washington St
Phoenix, AZ 85003
Email: aide.acedo@phoenix.gov
Phone: [\(602\) 262-7318](tel:(602)262-7318)

Department:

Water Services

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 (Aide Acedo) at (602) 262-7318/Voice or 711/TTY, or aide.acedo@phoenix.gov, no later than two (2) weeks prior to the meeting.

Solicitation Issue Date	August 2, 2024
Pre-Offer Conference (Non-Mandatory)	August 12, 2024, 8:00am Cave Creek Yard, 21642 North 20th Street, Phoenix, AZ 85024
Site Visit (Non-Mandatory)	August 12, 2024, 9:00am Cave Creek Yard, 21642 North 20th Street, Phoenix, AZ 85024
Pre-Offer Conference (Non-Mandatory)	August 13, 2024, 10:00am 91st Avenue WTP, 5615 South 91st Avenue, Tolleson, Arizona 85353

Site Visit	August 13, 2024, 11:00am 91st Avenue WTP, 5615 South 91st Avenue, Tolleson, Arizona 85353
Pre-Offer Conference (Non-Mandatory)	August 14, 2024, 1:00pm Deer Valley WTP, 3030 West Dunlap Avenue, Phoenix, AZ 85051
Site Visit (Non-Mandatory)	August 14, 2024, 2:00pm Deer Valley WTP, 3030 West Dunlap Avenue, Phoenix, AZ 85051
Pre-Offer Conference (Non-Mandatory)	August 15, 2024, 8:00am 52nd Street Reservoir Yard, 5204 East Thomas Road, Phoenix, AZ 85018
Site Visit (Non-Mandatory)	August 15, 2024, 9:00am 52nd Street Reservoir Yard, 5204 East Thomas Road, Phoenix, AZ 85018
Written Inquiries Due Date	August 20, 2024, 2:00pm
Offer Due Date	August 30, 2024, 2:00pm

2. Instructions

2.1. Description – Statement of Need

The City of Phoenix invites sealed offers for Landscape Maintenance for a 5-year contract term commencing on or about December 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.

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, Water Services Department, 200 W. Washington St. 9th 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. Submission of Offer

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

Offers must be submitted in one of the following ways:

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

2. Offeror's Address (as shown on the Certification Page)
3. Solicitation Number
4. Solicitation Title
5. Offer Opening Date
6. It is the responsibility of the Offeror to ensure that the Offer is timely and to confirm that there are no technical reasons that any offer submitted electronically may be delayed. The date and time on the upload as received/stamped by the City's file transfer site will provide proof of submission and verification whether the Offer was received on or prior to the exact time and date indicated in the Schedule of Events.
7. Any original documents (such as bonds, guaranties, powers of attorney), if required by the solicitation, must be separately delivered to and received by the City on or prior to the exact time and date indicated in the Schedule of Events, with a clear indication of the Offer for which it is attributed.

2.13. 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.

2.14. 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.

2.15. 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. Purpose

- A. The City is soliciting for landscape Contractor(s) for the performance of landscape maintenance services on a routine and as needed-basis. The Contractor will be performing routine, project-related, and emergency grounds and landscape maintenance services for over 300 properties. The purpose of the landscape maintenance at City properties is to maintain all aspects of the landscape so that:
 - 1. Plants and trees are healthy and thriving.
 - 2. Irrigation of landscape is performed in accordance with the City's conservation methods outlined herein.
 - 3. The site is clean and free of debris.
 - 4. The site is aesthetically pleasing; and
 - 5. Property hardscape, irrigation systems, and landscape elements function as designed.

3.2. Definitions/Acronyms

- A. **Site Visit:** A range of activities aimed at preserving the health and aesthetics of City of Phoenix Facilities. It may include the following: Mowing, weed management, pruning, fertilization, pest control, irrigation management and overall landscape to ensure a clean, safe and healthy appearance of the City of Phoenix facilities.
- B. **Ancillary Services:** Special services requested by the City of Phoenix outside of the Facility Service Visit activities. Ancillary services will require a separate quote(s) for the project based on the fees identified in the price schedule.
- C. **Debris:** Loose material consisting of trash, twigs, leaves, small branches, bits of metal, pieces of wood or glass.
- D. **Storm Damage:** The effects of heavy wind, or rainfall which can harm plants and trees. If high winds uproot trees or break branches or limbs and is considered storm damage. Uprooted trees, and limbs or branches that are greater than 4" in diameter are considered Ancillary Services. Broken branches less than 4" in diameter and twigs broken during storm or downed during non-storm days shall be cleaned up during the site visit.
- E. **Homeless Encampment:** A site where a group of homeless persons temporarily reside.
- F. **Bi-weekly:** Refers to once every two (2) weeks.
- G. **Hardscape:** Refers to paths, walkways, benches, paved areas, driveways, gazebos, walls, and retaining walls. It does not include the Art structures at the beautification sites.

3.3. Routine Services Responsibility, referred to as a Site Visit.

Contractor shall provide the following routine services at the costs detailed in **Attachment F – Bid Price Proposal**. A bullet list of routine services in brief is provided below. The Contractor shall follow the industry standards and practices while performing the services listed in the

contract, refer to **Exhibit 1 – Service Compliance Standards**. The Performance of ancillary services only does not constitute a site visit they are separate requirements.

The Contractor shall perform the following routine services during each site visit:

A. Pictures:

1. At each Site Visit the Contractor must take pictures of the site prior to the start of all work and again once the work has been completed. The pictures will be sent with the Service Report therefore they must be clear and not blurry.

B. Inspect property prior to service for issues pertaining to:

1. Damaged to irrigation, plant material and hardscape
2. Ensure that the irrigation system is operational without leaks or clogged emitters, and that settings are appropriate for healthy vegetation and consider water conservation guidelines outlined in **Exhibit 2**.
3. Plant and Tree Overgrowth
4. Weeds and debris accumulation
5. Homeless Encampments

C. Program and maintain Irrigation to ensure:

1. There is an efficient application of water and that overspray is reduced and runoff of water from the planted area is eliminated.
2. The application of water is only to target areas
3. The berms and swales are free of debris to optimize passive irrigation
4. elimination of obstructions to emitters
5. the system is operating as designed
6. The irrigation is sufficient to maintain the health of the plants
7. compliance with seasonal landscape watering guidelines in **Exhibit 3–Seasonal Landscape Watering Guidelines**

D. Repair of Irrigation system

1. Maintenance and repair of irrigation systems downstream from solenoid valves repairs are considered Routine Services and include, but are not limited to the following:
 2. Control valve replacement
 3. Sprinkler head repairs (nozzle cleaning, adjustment or replacement)
 4. Lateral pipe repairs

5. Adjustment, repair and/or replacement of existing sprinkler equipment or parts
6. Programming, and/or adjustment of irrigation controllers
7. Minor repair of drip irrigation system leaks, cuts, and placement adjustments

E. Maintain all Drainage structures to ensure:

1. All drainage structures including but not limited to berms, gutters, dry wells, swales, basins, and ensure they are free of debris and in a free-flowing condition.
2. All grates, catch basins, riprap, and curb openings to storm drains are free of obstructions and debris.
3. free flow occurs through conveyances to storage components or retention basins
4. care is used when maintaining lagoons with plastic liners

F. Maintain Decomposed Granite to ensure:

1. it is contained in planted areas
2. it is swept from all curbs, walks, driveways, and roads
3. non-flat surfaces are raked in an upward direction
4. holes, potholes, ruts, settlement, depressions, or undermines are backfilled
5. eroded or washed away material is redistributed or replenished
6. it extends under all plant materials within landscape areas
7. All decomposed granite must be raked, clear of litter, weeds, level, and accessible paths of travel.

G. Maintain and/or inspect Hardscape to ensure:

1. deterioration or unsafe conditions are immediately reported to the City Representative
2. All hardscape pathways and areas must be maintained such that they are cleanly swept, clear of decomposed granite, litter, weeds, and accessible paths of travel.
3. weeds, debris, gum, and stains are removed

H. Mow and Edge turf areas to ensure:

1. debris is picked up prior to mowing
2. turf is edged along building structures, curbs, sidewalks, driveways, and their physical barriers
3. clippings, trimmings, scrap, litter, and debris are immediately removed from the property

I. Prune and shape trees, palms, woody perennials, bushes, shrubs, and groundcover:

1. only as necessary to maintain the healthy and natural growth within spatial limitations
2. ensure that there shall be a minimum 6-foot horizontal clearance between sidewalks, trails and other obstacles i.e., fences, walls, utility boxes, electric cabinets, and other fixed objects unless otherwise directed by City Representatives.
3. All trees and shrubs shall be pruned and maintained clear of all roads, drives and sidewalks so as not to inhibit pedestrian and vehicle traffic.
4. sparingly during summer months
5. never into geometric shapes
6. care shall be taken to avoid disruption to active nests during the breeding season, typically February through August
7. Pruning and shaping of trees from ground to 10 foot is considered routine services. Pruning above 10 feet is considered ancillary services.

J. Controlling and Remove weeds.

1. Maintain the properties to ensure that it remains free of weeds, weeds are to be controlled by using both chemical and mechanical means (hoeing)
2. Contractor shall control weeds and intrusive grasses in all medians, easements, retention and native vegetation strip areas and other planting areas.
3. Weeds shall be manually removed and disposed of.

K. Application of herbicides, and spray pesticides, insecticides when necessary.

1. Pre-emergent herbicides and soil sterilant **shall not be utilized** on any Water Services Department property.
2. Post- emergent/herbicides may be used but cannot be sprayed within 20 feet of any open or uncovered water basins, channels, open potable treatment process including, canal, pre-sedimentation basin and final sedimentation basins or storage reservoirs. These areas require weed removal by hand or mechanical means only.
3. The Contractor shall ensure that the quantity and frequency of herbicide application is the minimum necessary to control the growth and spread of weeds and shall monitor weather conditions during application.
4. Integrated Pest Management (IPM) principles following the four- tiered approach found at the US Environmental Protection Agency (EPA) IPM website have been implemented and documented prior to use.
5. The City Representatives are immediately notified of any disease or pest infestation

6. The City Representatives are notified of any and all chemical application at City properties prior to application.
7. Appropriate signage and public notification procedures are used before, during, and after chemical usage.
8. These chemicals and their hand-held application equipment are not left unattended, in a place that is not under lock and key or stored on City property.

L. Maintain all trees, shrubs, cacti and/or succulents.

1. Notify the City Representative of all failed or damaged plants and cacti. Plant material damaged or destroyed for reasons as a result of the Contractor's action will be replaced by the Contractor without charge to the city within 10 days of the notification.
2. Staked shrub and tree trunks and branches are not girdling or chafing or rubbing causing bark wounds.
3. Stakes and guy wires are adjusted, replaced, removed, or flagged as necessary.
4. Trees and shrubs are to be re-staked and re-wired where necessary within twenty-four (24) hours following windstorms.
5. Cactus and succulents should have decomposed granite that is graded to avoid water collection at the base of the plants.
6. Damage caused by common pests such as the Agave Snout Nosed Weevil is recognized, treated, and removed to prevent damage from spreading.
7. Agave stalks are to be removed after they have flowered.
8. Remove diseased tissue from saguaros.

M. Remove all trash and debris.

1. remove all debris from the property including weeds, branches, plant materials, turf trimmings, trash, papers, cans, bottles, dead plants, cigarette butts, leaf and fruit litter, broken branches, etc. on the same day that routine service is performed for the property.

N. Equipment and Labor

1. Furnish and maintain all necessary labor, supplies, chemicals, vehicles, tools, and equipment sufficient in quantity, operational condition and capacity to efficiently provide grounds and landscape maintenance, weed control services, and water budgeted irrigation at City properties in accordance with the terms, conditions, and requirements contained in the contract.

O. Waste disposal

1. Contractor shall remove and dispose of all waste encountered, handled and/or generated from City properties each day in performance of the contract.

P. Homeless Encampment

1. The Contractor shall report to the City Representative any signs of homeless encampments or camping on any sites in this contract. Encampment debris includes, but is not limited to, large cardboard, plywood, shopping carts, blankets, sleeping bags, coolers, tents, tarps, etc.

3.4. Ancillary Services Responsibilities

The Contractor shall:

Perform ancillary services when requested and approved by City of Phoenix. Ancillary services may include but are not limited to the following:

A. Irrigation System Repairs

1. Maintenance and repair of irrigation systems downstream from solenoid valves shall be Contractor's responsibility and included in routine services fees.
2. Unless included in routine services, other irrigation system repairs will be allowed as additional services upon approval by the City. Contractor shall furnish emergency, 24-hour service, when necessary to immediately repair damaged or malfunctioning irrigation systems that are causing area flooding. Emergency repair costs will be reimbursed as additional services.

B. Adding decomposed Granite:

1. The City may request additional decomposed granite to be installed by the Contractor.

C. Dethatching and overseeding: The City may request dethatching and overseeding. However, there will be no overseeding of turf areas on City properties with Winter Rye Grass during the months where Bermuda Grass is dormant unless specifically requested by the City Representatives.

D. Tree Removals: Tree Removals necessary for reasons outside of Contractor's control will be charged to the City by caliper size as additional/ancillary service.

E. Plant Removals: Plant removals necessary for reasons outside of Contractor's control will be charged to the City as additional/ancillary service.

F. Plant Replacement: Plant material damaged or destroyed for reasons outside of Contractor's control will be charged to the City or reimbursed by the City as additional/ancillary service as a pass-through cost and the contracted general labor rate. The City may, at its option, provide replacement plant material.

G. Turf Removals: The City may request the contract to replace the turf at a location with a more sustainable landscape.

- H. **Repair of Landscape Features:** Repairs to concrete, fencing, block/brick, and tile repairs (landscape features only) within Contractor's Arizona Registrar of Contractor license scope will be charged to the City as additional service. This work will be billed at the contracted labor rate and cost plus for materials. In the event subcontractor are used, subcontractor shall do work only within their Arizona Registrar of Contractor' licenses and shall be billed at cost plus for subcontractor services.
- I. **Storm Damage Cleanup:** If high winds uproot trees or break branches or limbs and is considered storm damage. Uprooted trees, and limbs or branches that are greater than 4" in diameter are considered Ancillary Services. Broken branches less than 4" in diameter and twigs broken during storm or downed during non-storm days shall be cleaned up during the site visit. The City may request that the Contractor assist with the storm damage classified as ancillary services.
- J. **Private Property Restoration Services:**
1. Contractor may be contacted to provide site restoration services for residential or commercial properties when a Department has performed system maintenance that has disturbed landscaping and requires repair and restoration at residential facilities (such as individual homes, duplexes, apartment complexes, or retirement buildings) and commercial establishments (such as restaurants, laundries, banks, medical offices, hotels, retail stores, warehouses, etc.). Services may include but are not limited to, landscape repair and replacement, concrete repairs, block/brick repair and replacement, and tile repair and replacement.
 2. For requests for service which have been declared an Emergency by the City, Contractor must physically be on-site within two (2) hours and must begin work on-site no later than twenty-four (24) hours after receiving the request from the Contract Representative. If the safety issue cannot be corrected immediately, the location shall be secured (barricading site, safety tape, etc.) to protect the public from hazardous and/or dangerous conditions. Depending upon the nature of the emergency a shorter response time may be require
 3. For each location document existing conditions behind the curb prior to starting restoration work and after completion of restoration work. Documentation will include, at a minimum, two color photographs taken from different angles fully documenting the extent of damage and the results of the restoration of the property. The cost of taking the photos will be considered incidental to the cost of the project; no separate measurement or payment will be made for this item. The photos must be provided with the invoices for the Work sent to the City.
 4. Provide the City Representative with a detailed quote of services necessary to restore the private property. The Contractor shall not proceed with the restoration without the City's notification to proceed with the services.

5. A pre-project meeting may be held prior to any restoration or repair project. Contractor representatives are required to attend. Items such as, but not limited to, location of entry to site, project schedule, and City concerns will be discussed.
6. Restoration Warranties: Contractor shall list on the invoice/service ticket the brand name and part/model number of all replacement parts used. All repairs shall be warranted for a minimum period of ninety (90) calendar days from the date of repair. If the same item must be repaired again for any failure during the warranty period, the follow-up service will be performed at no charge to the City. Any replacement parts that fail during the warranty period shall be replaced at no charge to the City including all labor. Contractor shall honor standard parts warranties exceeding ninety (90) days.

3.5. Initial Site Inspection and Acceptance of Work

- A. Contractor shall accept the existing condition of all Contract Sites at the time of contract award. Approximately ten (10) days of completion of the Initial Post-Award Site Visit. Contractor shall tour designated sites with the Contract Administrator. The City representative will schedule the Post-Award Conference and Site Visits with stakeholders. The Contract Administrator may authorize a mutually agreed upon one-time (1) payment to Contractor for correcting any identified and agreed upon deficiencies. If payment and work are authorized, Contractor shall bring the designated sites into compliance with the bid specifications and thereafter maintain them as specified herein.

3.6. Spills

- A. In case of a chemical spill, Contractor shall immediately notify the City Representative. Contractor shall, at their expense, clean up the spill and remove contaminated material, debris, and clean up material.

3.7. Schedules

Contractor shall:

- A. Provide landscaping schedules for each site after award of contract. The schedules for each site shall be compiled into a single MS Excel workbook, see Exhibit 4 for a sample schedule. At a minimum, the schedules shall include the following:
 1. Address timing of routine services under the scope. Provide the number of hours on-site during each visit, for example, Site #1 a crew will be on-site for two (2) hours on twice per week, etc.
 2. Provide a specified number of crew members available to each site during visits, for example Site #1 will have available four (4) crew members on scheduled workdays.

3. Address holidays that may affect the schedule. Expectations regarding holidays may vary among City departments as some departments must operate on holidays and some do not.
- B. Schedule work such that it will not disrupt the functions and normal day-to-day operations of the City. The City reserves the right to make changes to the schedule set up by Contractor, the specific requirements, and to establish the minimum requirements.
- C. The City understands the demands of landscaping and grounds maintenance can be volatile due to circumstances beyond Contractor's control (i.e. weather, etc.). However, once the schedule is established, every effort shall be made to abide by the schedule and complete all work during the calendar week that is scheduled, unless unforeseen circumstances out of Contractor's control cause delays. It is not the City Representative's responsibility to inquire of Contractor when schedules are not met; rather, Contractor shall initiate such communication timely given the precipitating circumstances.
- D. Some locations require an escort and must be scheduled at least one (1) week prior to service. In the event that the Contractor is unable to meet City staff at the agreed-upon time, the Contractor shall make every attempt to verbally notify the appropriate Contract Representative no more than 30 minutes after the scheduled meeting time.

3.8. Personnel Requirements

The Contractor shall provide sufficient landscaping personnel, with the necessary training and qualifications, for service delivery.

- A. **Single Point of Contact:** Provide a single point of contact to the City to function as the Contract Superintendent, who will be available during working hours for coordination with the City. The Contract Superintendent must be able to:
 1. address overall contract questions/concerns;
 2. fully understand the scope of work and specific contract requirements;
 3. be familiar with the topography and crews at all works sites; and,
 4. have authority to act on behalf of Contractor in any situation.
- B. **Dedicated Crews:** Establish and maintain crews capable of performing the work per the specifications and provisions of the contract. Crews will be dedicated to this contract only while onsite and will report to the Contractor's Crew Supervisor or Field Supervisor. The ability of these crews to successfully maintain the schedule created by the Contractor may have an impact on the continuation of Contractor's work at the property.
- C. **Crew Supervision:** Provide on-site supervision or a Field Supervisor to assure that all work performed is in accordance with sound and accepted industry standards and practices. The Contractor shall address any safety, disciplinary, rule violation, or

performance issue of assigned contractor personnel within 24 hours after discovery of the issue.

D. Substitution of Personnel: During the contract, the City reserves the right to require Contractor to reassign or otherwise remove any Contractor employees found unacceptable by the City. Contractor further agrees that any substitution made pursuant to this paragraph must be equal to or better than the individual(s) originally proposed, and that the City's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The City agrees that an approval of a substitution will not be unreasonably withheld.

E. Sub-Contractor:

1. If Contractor wishes to utilize subcontractor for performance of the Work, in addition to those listed in Contractor's original Offer to the City, Contractor shall submit a current subcontractor list to the City Representatives. No subcontractor may be used without prior approval of the City Representatives.
2. Subcontractor must be properly licensed for the type of work they will perform. The City reserves the right to request the removal of Contractor's subcontractor if deemed unsatisfactory by the City Representatives.
3. Contractor Responsibility: Use of a subcontractor does not relieve Contractor of responsibility of service. Contractor will manage all schedules, quality, performance, and project management for subcontractor. Contractor will be held solely responsible and accountable for the service and/or repairs for which Contractor has subcontracted.
4. Payment: Subcontracting is at Contractor's expense. Contractor is responsible for all payments including, but not limited to, labor, parts, and materials incurred from subcontracting the services

F. Personnel Training: Prior to any work performed at a Wastewater or Water Treatment Plant site, all contractor employees who will work at that site must attend site-specific training class provided by City personnel for Contractor and their employees. This training is mandatory for compliance with the OSHA 1910.120 regulation. The training will provide the contract employees instruction and direction for appropriate actions in the event of chlorine or sulfur dioxide alarms or other emergencies. Contractor and employees shall become familiar and comply with specialty requirements of each facility or site serviced. These include security levels and emergency evacuation plans.

3.9. Performance Measures

A. Site Inspection

1. The City's Representative may conduct random inspections of the locations covered under this contract using **Exhibit 5 – Performance Record**. The purpose of the inspection is to assess the Contractor's adherence to the Scope of Work. Contractor

will be responsible for meeting all requirements as specified by the City's authorized representatives, to ensure that the service areas meet the City's standards. The Contractor shall be notified of the deficiencies at sites by email. All deficiencies shall be corrected within timeframes listed on **Exhibit 6, Corrective Action** Timeframes.

2. The Contractor shall notify the City's representative by email that all deficiencies have been corrected within 7 days of the initial contact by the City. If the Contractor fails to notify the City representative within this time period or if upon reinspection of the site, the City finds the corrections are not adequately made the Contractor shall be subject to a \$75 per site, per reinspection charge. This reinspection charge will be deducted from the Contractor's monthly invoicing for the coordination of the reinspection, staff time, vehicle use, fuel cost etc. This charge shall apply to the first reinspection and all subsequent re-inspections.

B. Water Budget Compliance and Enforcement

1. Contractor shall act in good faith to not exceed more than twenty percent (20%) of the water budget prescribed for the specified City properties in **Exhibit 7 – Monthly Water Budgets**. Landscape meter data will be reviewed by City Representatives to ensure water budgets are followed. City Representatives will notify the Contractor in the event of water budget exceedances of more than 20% for specific properties. Corrective action must occur within two billing cycles.
2. **If** the Contractor is unable to bring the site within 20% of the prescribed water budget within two billing cycles, the Contractor will incur landscape water costs over the prescribed water budget for the property. Costs for over water will be deducted from service payment per the Contract Standard Terms and Conditions – Payment Deduction Offset Provision. Deduction from payment to cover costs of over watering will continue until the property is brought within 20% of the prescribed water budget. Rates will be determined by the current Water Rates Schedule.

3.10. Service Reports

The Contractor shall provide service reports to the City describing the tasks performed at the facility during the service visit. The service report must include pictures prior to the start of the service call and after the work was performed. The reports and pictures must be submitted with the invoice for the services. **Documentation to include the City's location, date, amount of time spent on the site and photographs demonstrating completion of the work.**

3.11. Deliverable For Invoices

- A. The following deliverables must be included with invoices, failure to include the deliverables will delay the payment for services performed:
 1. Service reports.
 2. Before / after photos
 3. Receipts for materials, labor, purchased under Additional/Ancillary Services

4. Chemical application documentation

- B. If the Contractor fails to submit the supporting documentation with invoices, the visits will be considered as a missed service and the invoice will not be paid.

3.12. Equipment and Labor

- A. It will be the responsibility of the Contractor to provide all equipment and labor as necessary to perform the work described in these documents in a safe, efficient, aesthetically pleasing, and legal manner. The Contractor shall at all times furnish and maintain sufficient equipment as necessary to perform the work of this contract. Such equipment shall be subject to the inspection and approval of the City's Representative. If the contractor is unable to consistently provide the necessary equipment to perform the work, it may be considered a breach of this contract.
- B. Use appropriate tools for the task which are consistent with industry standards. Contractor shall always have appropriate tools available and shall keep them in a clean, operative, and sharp condition.
- ~~C. Not use chain saws, nor gas powered or electric trimming devices without the consent of the City Representatives.~~
- D. When using power blowers, the guidelines of Maricopa County Air Pollution Control Regulations (Regulation III – Control of Air Contaminants) – Rule 310 Fugitive Dust from Dust Generating Operations must be considered. Debris and gravel shall not be blown onto adjacent property, street surfaces, or planting beds and **the blowers shall not be used around open water sources**

3.13. Uniforms

- A. All staff assigned as part of this contract shall wear a uniform identifying the name of Contractor. The site supervisor will wear a badge clearly identifying them as such.

3.14. Personal Protective Equipment

- A. Personal protective equipment, including but not limited to, safety shoes, earplugs, safety vests, and safety glasses, shall be worn as conditions and chemical usage warrant. Hard hats shall be worn in construction areas or as directed by the City.

3.15. Building/Site Access

A. **Check-In/Out Requirements:**

1. Contractor employees must always sign in and check out at each site as determined by the City Representatives. This is a security/safety issue and is necessitated by the need to account for everyone on site during an emergency. There are no exceptions to this requirement, and failure to do so may result in contract cancellation. Contractor may not be paid for employee hours which cannot be verified by sign-in requirements.

B. Identification Badges

1. Employees must possess a City of Phoenix identification badge for site access. In accordance with Section III, Special Terms and Conditions, Contractor Worker Access Controls, Badge and Key Access Requirements. The Contractor shall direct their technicians that they will be required to check in and out of City facilities (including remote sites) with the stated City Representative or their designee.
2. Only authorized Contractor employees are allowed on the premises of the City of Phoenix site while in the process of performing the services described herein or representing the Contractor as an employee authorized to perform these services. The Contractor's employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor employee.
3. All contractor personnel must undergo a criminal history background check through the City approved vendor before they may begin work under this contract. The background check shall be nationwide in scope. Personnel must not have any felony convictions within the past seven (7) years nor more than one misdemeanor conviction within the past two (2) years. Additionally, there can be no open warrants or pending Felonies nor more than one pending misdemeanor charges. City of Phoenix Water Security Management Unit will notify applicant employees that they have successfully passed the background check (and next steps to obtain badge) before they may be assigned to work under this Agreement.

C. Storage

1. Contractor shall provide for all storage at off-site locations, delivering to site only sufficient equipment and materials to complete daily tasks. Unless otherwise stipulated in the contract, roll-offs for trash may be kept at service locations if approved by the appropriate City Representative.

D. Site Disturbance:

1. Contractor shall make every effort to minimize tire marks and compaction of the soil due to driving and parking on non-paved areas.

E. Use of City Facilities:

1. Contractor's use of City phones, indoor facilities for breaks and/or lunches is prohibited

3.16. Contract Phase-Out and Transition

- A. A Phase-out orientation is needed to familiarize the new Contractor and employees with operations. All correspondence shall be coordinated through the Procurement Officer during this orientation period. Assistance may be in person, telephone, or through email, or as requested by the Procurement Officer. The Contractor shall be available to assist

or answer questions during normal working hours, with same day response to the Procurement Officer.

- B. The Contractor shall be required to provide phase-out orientation assistance, as requested, to the City for up to 30 calendar days following the new contracts effective date.
- C. The outgoing Contractor shall be wholly responsible for providing the services called for by this Contract during the phase-out period. The Contractor agrees to cooperate with the City to enhance the continuity and consistency of the services required by any resulting Contract.

3.17. Addition of New Locations/Deletion of Existing Locations:

- A. The City reserves the right to add or delete locations, or increase the area within existing service locations, with 30 calendar days' written notice via a contract amendment.
- B. For addition of new locations, Procurement will contact the Contractor(s) with the request for a quote, to include the address of the site, type of service requested (Regular Services, repairs, pruning, etc.), and suggested site visit appointment. Procurement may contact Contractor(s) verbally but shall follow up in writing. Contractor(s) will respond in writing within forty-eight (48) hours from Procurement's written request, accepting or rejecting the service request and accepting the site visit appointment or suggesting an alternative site visit appointment. It is not required that all contacted Contractor visit the property at the same time.
- C. In the event the City and Contractor do not agree on additional maintenance charges; the City reserves the right to maintain the additional areas using City personnel or select another Contractor for the new areas. Additions, deletions, or changes shall not invalidate the contract; and Contractor agrees to perform the work as altered the same as if it had been part of the original agreement.

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 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.

4.4. Costs and Payments

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

4.5. Contract Changes

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

City reserves the right to obtain like goods or services from another source when necessary.

4.6. Risk of Loss and Liability

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

its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

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

4.7. City's Contractual Rights

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

- A. **Non-Exclusive Remedies:** The rights and remedies of the City under this Contract are non-exclusive.
- B. **Default in One Installment to Constitute Breach:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- C. **On Time Delivery:** Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.
- D. **Default:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the 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.

4.8. Contract Termination

- A. **Gratuities:** The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- B. **Conditions and Causes for Termination:**
 - 1. This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
 - 2. The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:
 - 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.

4.9. Notice

Any notice, consent or other communication (“Notice”) required or permitted under this Agreement will be in writing and either: (1) delivered in person; (2) sent via e-mail, return receipt requested; (3) sent via facsimile transmission; (4) deposited with any commercial air courier or express delivery service; or (5) deposited in the United States mail, postage prepaid.

4.10. 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.

4.11. 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.

4.12. 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.

4.13. 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.

4.14. 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.

4.15. 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.

4.16. 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.

4.17. 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.

4.18. 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.

4.19. Contractor Requirements for the Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The city may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- A. Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
- B. Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- C. Access to shaded areas and/or air conditioning.
- D. Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- E. Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- F. Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of

heat illness and injury, how to administer appropriate first aid measures and how to report heat illness and injury to emergency medical personnel.

The contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the contractor to ensure compliance by its subcontractors.

5. Special Terms and Conditions

5.1. Term of Contract

The term of this Contract will commence on or about **December 1, 2024**, and will continue for a period of five (5) years thereafter.

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. Method of Ordering

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

5.4. Method of Invoicing

Invoice must be emailed in .pdf format to invoices@phoenix.gov and must include the following:

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

5.5. Method of Payment

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

5.6. Partial Payments

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

5.7. Supplier Profile Changes

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

5.8. Estimated Quantities or Dollar Amounts (Requirements Contracts Only)

Quantities and dollar amounts listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this agreement, as determined by actual needs and availability or appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirement for the contract period.

5.9. Suspensions of Work

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

5.10. Hours of Work

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

5.11. Post Award Conference

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

5.12. Performance Interference

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

5.13. Cooperative Agreement

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

5.14. Exclusive Possession

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

5.15. Delivery / Service Ticket

Contractor shall provide a packing list or service ticket for items delivered to the City or services provided to the City. Tickets should include the following and a legible copy shall be provided to the City:

- Date
- City purchase order number
- Written description of services which were provided
- Itemized list of materials which were delivered, including quantity
- A unique identification number and Contractor name
- Signature of City employee who accepted for the materials/services

5.16. Licenses and Permits

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

5.17. Miscellaneous Fees

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

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

5.18. Demonstration

The City may, in its discretion, require a demonstration of the products or services offered as part of the evaluation process. The demonstration shall be provided by the Contractor at no cost to the City for the period deemed sufficient to properly evaluate the product or service. The exact time, conditions, and terms of the evaluation shall be established at the time a demonstration is requested.

5.19. Warranty

All equipment supplied under this contract shall be fully guaranteed by the Contractor for a minimum period of 5-years from the date of acceptance by the City. Any defects of design, workmanship, or materials that would result in non-compliance with the contract specifications shall be fully corrected by the Contractor (including parts and labor) without cost to the City. Warranty work requirements shall be performed by a technician on-site with a guaranteed response time of 3-days, seven days a week, 24 hours per day. City acceptance will be determined by the date of actual installation and start-up. Since some of the items will be

inventoried for emergency purposes, the City will notify the Contractor of actual start-up date which will be within one year of item receipt.

5.20. Hiring of Each Other's Personnel

Without the prior written consent of the other party, each party shall not actively target for hire personnel of the other party through the term of this Agreement and for six (6) months after the expiration or termination of the last Statement of Work executed by the parties. This prohibition does not apply to or affect in any way the City's standard recruitment processes. The City will not pay a fee or owe any compensation whatsoever to the Contractor if Contractor's employee files an employment application, competes successfully and is hired into a City position. Individuals who are employed by Contractor agency and who are on assignment at the City may file an application for regular City employment and be considered on the same merits and qualifications as would all other applicants. For this reason, compensation to Contractor would not be appropriate and not incurred if such worker succeeds in the selection process and is appointed to a regular City position.

5.21. Liquidated Damages

If the Contractor fails to deliver the supplies or perform the services within the time specified in its contract, or any extension thereof, the actual damages to the City for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, the Contractor shall pay to the City as fixed, agreed and liquidated damages for each calendar day of the delay, the amount of N/A. The City may terminate this contract in whole or in part as provided in the "Default" provision. In that event, the Contractor shall be liable for such liquidated damages accruing until the City may reasonably obtain delivery or performance of similar supplies and services. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond its control and without fault or negligence, as determined by the City. The Chief Procurement Officer will be the sole judge in determining the liquidated damages.

5.22. Procurement Reports

Contractor shall submit monthly reports in an electronic format acceptable to the City during the term of this contract commencing one month after the effective date. These reports are due by the 15th day of the month following the reporting period. Total purchases for each department must be shown on a separate line. Report should be rounded to the nearest dollar. Contractor will provide sample forms for approval by the City.

5.23. Single Source for Warranty Work

Contractor shall be fully responsible for all warranty work. In addition, Contractor shall have or establish a single local Phoenix source that will accomplish or coordinate any necessary warranty work. Contractor shall respond to requests for repairs within 3 business days after a verbal request by the City.

5.24. Communication in English

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

5.25. Contractor Assignments

The Contractor hereby agrees that any of its employees who may be assigned to a City site to satisfy obligations under this contract shall be used exclusively for that purpose during the hours when they are working in areas covered by this contract and shall perform no work at other City facilities. If other services, in addition to or separate from, the services specified herein, may be deemed necessary by the Chief Procurement Officer or his authorized representative, the Contractor may be requested to perform the additional or special service.

5.26. Final Inspection and Approval

The Contractor will request the City's authorized Department representative to conduct a site inspection after the project is complete. City's authorized Department representative will prepare a "punch-list" during the inspection and will forward a copy to the Contractor.

After the "punch-list" items have been corrected, the Contractor will request a final inspection with the authorized Department representative. Final project approval is contingent upon the City authorized Department representative's final inspection and written approval.

5.27. Specifications

The specifications and/or drawings associated with this project are intended to generally describe a complete installation. Any additional materials or labor required for the complete project as intended shall be provided by the Contractor, even if it has not been detailed in this document.

5.28. Storage Space

The Contractor may store supplies, materials and equipment in a storage area on the City facility premises designated by the City's authorized Department representative during work. The Contractor agrees to keep its portion of this storage area in accordance with all applicable fire regulations. The use of City storage facilities will be on a space available basis and subject to the approval of the City's authorized Department representative.

No materials or equipment will be stored or temporarily set in restrooms, under stairwells or other spaces accessible to the public. Hazardous chemicals such as solvent based strippers and cleaners will not be stored on City property.

If storage is in an electrical closet, a minimum of 36 inches shall be provided in front of all electrical panels. The width shall be a minimum of 30 inches or the width of the panel. The width of working space in front of the electrical equipment shall be the width of the equipment or 30 inches, whichever is greater. In all cases, the work space shall permit at least a 90-degree opening of equipment.

5.29. Telephone Use

Contractor shall be allowed job-related use of City telephone service at no cost to the Contractor and as designated by the City for use. The Contractor will pay any cost to repair damage caused by Contractor to the telephone equipment over and above normal wear and tear. Toll calls are not permitted by Contractor employees.

A list of emergency telephone numbers shall be maintained at the work locations by the Contractor and will include the Police and Fire Departments.

Personal cell phone use by Contractor employees is prohibited while performing duties under this contract. Telephone calls from all types of phones are restricted to breaks and lunches. Emergency calls will be placed and received at designated City telephones only. This includes communications between Contractor Management and onsite employees.

5.30. Transition of Contract

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

5.31. Types of Work Supervision

The Contractor shall provide onsite supervision and appropriate training to assure competent performance of the work. Contractor or authorized agent will make sufficient daily routine inspections to ensure the work is performed as required by this contract.

5.32. Background Screening – Maximum Risk

- A. **Determined Risk Level:** The current risk level and background screening required is MAXIMUM RISK.
- B. **Maximum Risk Level:** A maximum risk background screening will be performed every three-years when the Contract Worker's work assignment will:
 - 1. work directly with vulnerable adults or children, (under age 18); or
 - 2. any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or
 - 3. unescorted access to:
 - a. City data centers, money rooms, high-value equipment rooms; or
 - b. unescorted access to private residences; or
 - c. access to critical infrastructure sites/facilities; or
 - d. direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.
- C. **Requirements:** The background screening for maximum 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. In addition, Maximum screening

levels may require additional checks as included herein, depending on the scope of work, and may be amended if the scope of work changes.

5.33. Contractor Certification; City Approval of Maximum Risk Background Screening

Unless otherwise provided for in the Scope of Work, Contractor will be responsible for:

- A. determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,
- B. submitting pass/fail results to the City for approval; and,
- C. reviewing the results of the background check every three to five years, dependent on scope; and,
- D. to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- E. Submitting the list of qualified Contract Workers to the contracting department; and,
- F. If, upon review of the background information, the City will advise the Contractor if it believes a Contract Worker should be disqualified. The Contractor will evaluate the Contract Worker and if the Contractor believes that there are extenuating circumstances that suggest that the person should not be disqualified, the Contractor will discuss those circumstances with the contracting department. The contracting department decision on disqualification of a Contract Worker is final.
- G. 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.
- H. 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.
- I. The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
- J. The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Contractor, or any contracted agency that assists with review, after the City’s completed review.
- K. By executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all such background screening requirements for the maximum risk background screening, and verified legal worker status, as required.
- L. Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the City’s written acceptance of Contract Worker’s maximum risk background screening. The City may, in its sole

discretion, accept or reject any or all the Contract Workers proposed by Contractor for performing work under this Agreement. A Contract Worker rejected for work at a maximum risk level under this agreement will not be proposed to perform work under other city contracts or engagements without city's prior written approval.

- M. For any childcare or health worker positions, or Criminal Justice Information Systems access in the scope of work, Contractor is required to send the City updated background checks every three years.
- N. The Contractor will submit prior to scheduling any services, a current list of names, addresses, and social security numbers of all employees requiring access to the facility. The Contractor is responsible for obtaining security clearance from the Police Department for all employees. The City reserves the right to change the restricted areas as needed. The Contractor grants the rights to the Police Department to conduct background checks of all employees entering the building. All employees will submit to the background check before access to the facility is given.
- O. The background checks will be conducted prior to any employee entering to work and will be based upon information provided to the Police Department including, but not limited to: name, address, date and place of birth, social security number, INS number if applicable, and a copy of a valid photo identification. The information will be provided to the City's authorized Department representative at least five business days (excluding weekends and holidays) in advance of the need for access. The form will be provided by the City's authorized Department representative. The City's authorized Department representative will conduct the security check.
- P. The City may, at any time, in its sole discretion, refuse to allow an employee access to an area for any of the following reasons, but not limited to:
 - 1. Conviction of a felony.
 - 2. Conviction of a misdemeanor (not including traffic or parking violation).
 - 3. Any outstanding warrants (including traffic and parking violations).
 - 4. A person currently on parole or probation.
 - 5. A person currently involved in an investigation.

5.34. Dust Control

Contractor shall not cause or allow any dust generating operation, use of property, or any other operation which cause fugitive dust emissions that exceed the 20% visible emission opacity limit in Rule 300 of Maricopa County's Air Pollution Control Regulations. The Contractor shall suppress emission of dust to comply with this limit.

The Contractor shall NOT use grading, blading, disking, a gannon or like equipment to control weeds without prior written authorization from the City's authorized Department representative. Earthmoving activities shall be conducted in accordance with the standards and work practices

defined in Maricopa County Fugitive Dust Rule 310. Contractor shall obtain a Maricopa County Dust Control Permit for each site where there is earthmoving on areas greater than 0.1 acres. Contractor may submit invoices for reimbursement of dust control permit fees when necessary, provided documentation is included to verify the fee.

The use of leaf blowers is strictly prohibited. Acceptable alternatives to leaf blowers include: brooms, rakes, walk behind leaf vacuums, and PM-10 Compliance Sweepers. Debris shall not be swept into the street.

5.35. 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.

5.36. 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.

5.37. Pesticides

Pest control shall be managed through prevention, physical and mechanical methods, and with pesticides only when necessary. The City will implement the principles of Integrated Pest Management (IPM) to the extent possible. Contractors will use the least toxic pest control substance required to be effective. Contractor shall submit for approval a list of chemical pesticides to be applied, indicating: trade name, EPA registration number and category (includes herbicides, insecticides, rodenticides, etc.), and label signal word (i.e. caution, warning, or danger) and shall provide the same information prior to using any other product not originally submitted and approved by the City during the term of the contract.

Pesticides must be EPA-registered or exempt from registration under section 25b of the Federal Insecticide and Rodenticide Act (FIFRA) at the time of submittal. All products must be applied in strict compliance with the most current labeling restrictions and/or consistent with most current EPA-approved application use at the time of application.

EPA Toxicity Class I pesticides shall be reviewed for the least toxic effective alternative prior to purchase. Contractors shall review the Groundwater Protection List prior to pesticide purchase; when available, alternative pesticides that are not on the Groundwater Protection List and meet the same need shall be used.

5.38. Right-of-Way Management Program

Pursuant to Phoenix City Code, Article XV as revised September 18, 2007, the Contractor must comply with the City Right-of-Way Management Program when performing services under this agreement. Requirements may be found at www.phoenix.gov/streetsraffic-management/right-of-way-mgmt-program-information.

5.39. Energy Efficiency - Pump Bowl Assemblies

Due to the high energy costs to operate pump assemblies, the City reserves the right to purchase those pump bowl assemblies offering the highest variable speed pump efficiency, price notwithstanding. The solicitation specifications for each pump assembly have been specifically written to provide the highest pump efficiency, for each well application, known to be available from existing pump assemblies currently being manufactured.

5.40. Environmental Quality - Drinking Water and Treatment Chemicals

All materials, equipment, supplies or products that come into contact with drinking water or drinking water treatment chemicals shall conform to American National Standards Institute standards 60 and/or 61 as evidenced by certification from either Underwriters Laboratories or NSF International. Contractor must provide proof of this certification if requested.

All products provided in response to this solicitation shall be certified by the U.S. EPA Water Sense Partnership program for water efficiency.

5.41. Handling of Photographs

The US Department of Homeland Security has designated water and wastewater treatment facilities as 'critical infrastructure/key resources'. Because of federal directives, only persons authorized by the WSD Security Management Unit are permitted to photograph or film Water infrastructure, facilities, and assets which any include, but are not limited to: pay stations, warehouses, lift stations, treatment plants, service yards, booster stations, well sites, vehicles and related equipment and supplies.

5.42. Tax Exemption

Pursuant to A.R.S. § 42-5061 and Phoenix City Code § 14-110, pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves are exempt from the imposition of sales or use tax.

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. Contractor's Insurance

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

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

7.2. Scope and Limits of Insurance

Contractor 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 Contractor 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 Contractor.
- The Contractor'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 Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor'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 contractor or subcontractor is exempt under A.R.S. §23-902(E), **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

7.6. Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor 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 to wsdprocurement@phoenix.gov, or hand delivered to 200 W. Washington St., 9th Fl., Phoenix, AZ 85003.

7.7. 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 Contractor from potential insurer insolvency.

7.8. Verification of Coverage

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

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

All certificates required by this Contract must be sent directly to wspurchase@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

7.9. Subcontractors

Contractor's certificates shall include all subcontractors as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontractors 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 Contractor that its subcontractors have insurance coverage. All subcontractors 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 Contractor may, on behalf of its subcontractors, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontractors 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

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

Please submit only the Submittal Section, do not submit a copy of the entire solicitation document. This Offer will remain in effect for a period of 180 calendar days from the opening date and is irrevocable unless it is in the City's best interest to release offer(s).

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.
- Attachment A – Conflict of Interest Form
 - Attachment B – 24 Hour Emergency Contact Rev 2-2023
 - Attachment C – Costs and Payments Rev 2-2023
 - Attachment D – Offer Page Rev2-2023
 - Attachment E – Acceptance_Form_2024
 - Attachment F – Bid Price Proposal (excel spreadsheet)
 - Attachment G – References
- D. Addenda - Signed copies of all published addenda.
- E. Documentation to demonstrate how the Offeror meets the pre-award qualification.

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, purchase additional quantities up to and including 100 percent of the quantities specified at these solicitation prices and conforming to solicitation specifications.

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

8.4. Pre-Award Qualifications

- A. Throughout the term of the contract, Contractor will maintain an Arizona Registrar of Contractor (AZROC) license appropriate for the work, which may include but not be limited to class CR21, Landscaping, and Irrigation Systems.
- B. For two (2) years, Contractor must have been licensed and active in the business of residential and/or commercial landscape maintenance service, whichever or both as applicable to the work Contractor Offered under this contract.
- C. The titles listed here are used to describe a role that is necessary for a successful contract. The Bidder may have an individual that is responsible for multiple roles. If an individual will be proposed to fulfill multiple roles, then they must be qualified for those roles.
 1. **CONTRACTOR SUPERINTENDENT:** The Contractor's Superintendent shall possess the following minimum experience and qualifications.
 - a. Minimum of five years' local regional landscape maintenance experience with arid-region plant materials.
 - b. Certified by the Arizona Landscape Contractor' Association in landscape maintenance and installation.
 - c. Registered and Certified Applicator with a Qualifying Party and hold a Business License by the Arizona Department of Agriculture Office of Pest Management. Applicators should be licensed in Ornamental & Turf, and Right of Way at a minimum.
 - d. Fluent in the English language.
 2. **FIELD SUPERVISOR:** Field Supervisors shall possess the following minimum experience and qualifications:
 - a. Minimum of three years' landscape maintenance experience
 - b. Minimum of one-year experience in arid-region plant materials
 - c. Minimum one-year supervisory experience

- d. Certified by the State of Arizona Office of Pest Management in structural pest control, ornamental, and weed control
 - e. Certified by the Arizona Landscape Contractor' Association in landscape maintenance/installation.
 - f. Fluent in the English language
3. **IRRIGATION TECHNICIANS:** Irrigation Technicians shall possess the following minimum experience and qualifications:
- a. Current accreditation with the Arizona Contractor Association as a Certified Irrigation Technician.
 - b. Minimum of two years of experience in repair, maintaining and troubleshooting all complex timer-controlled sprinkler systems and valves.
 - c. Fluent in the English language
4. **PESTICIDE APPLICATORS:** Pesticide Applicators shall possess the following minimum experience and qualifications:
- a. Current registration with the Arizona Department of Agriculture Pest Management Division under the corresponding Contractor's business license.
- D. For the following two positions, a subcontractor may be proposed to meet the minimum requirements. The Bidder must provide the proposed subcontractor information in the bid submittal to be considered responsive to the pre-award qualifications
1. **ARBORIST:** Certified Arborist as accredited by the International Society of Arboriculture (ISA). Work affecting trees shall be performed by Certified Arborists, Certified Ground Operations Specialists and/or Certified Tree Worker/Climber Specialists, as applicable, under the direct supervision of the Contractor's Certified Arborist. Arborist shall possess the following minimum experience and qualifications:
- a. Current accreditation with the International Society of Arboriculture (ISA) as a Certified Arborist.
 - b. Fluent in the English language.
2. **GROUND OPERATIONS SPECIALISTS and/or TREE WORKER/CLIMBER SPECIALISTS:** Certified Arborist as accredited by the International Society of Arboriculture (ISA). Work affecting trees shall be performed by Certified Arborists, Certified Ground Operations Specialists and/or Certified Tree Worker/Climber Specialists, as applicable, under the direct supervision of the Contractor's Certified Arborist. Arborist shall possess the following minimum experience and qualifications:
- a. Current accreditation with the International Society of Arboriculture (ISA) and/or the Tree Care Industry Association (TCIA) as a Certified Ground Operations Specialist and/or a Tree Worker/Climber Specialist.

Invitation For Bid #IFB-2425-WAD-648

Title: Landscaping Maintenance
