



City of Phoenix

REQUEST FOR PROPOSAL - PROFESSIONAL
SERVICES
RFP PS-25-0542
INVESTMENT CONSULTING SERVICES

City of Phoenix
Finance Central Procurement
251 W Washington St
Phoenix, AZ
85003

RELEASE DATE: February 20, 2025

DEADLINE FOR QUESTIONS: March 7, 2025 at 2:00 pm

RESPONSE DEADLINE: March 21, 2025, 2:00 pm

City of Phoenix
REQUEST FOR PROPOSAL - PROFESSIONAL SERVICES
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Investment Consulting Services

1.	INSTRUCTIONS	4
1.1.	Introduction	4
1.2.	Description – Statement of Need.....	6
1.3.	Minimum Qualifications.....	6
1.4.	Scope of Work and Special Terms and Conditions	6
1.5.	City’s Vendor Self-Registration and Notification	7
1.6.	Preparation of Offer	7
1.7.	Exception	8
1.8.	Inquiries.....	8
1.9.	Addenda	8
1.10.	Licenses	8
1.11.	Certifications	8
1.12.	Submission of Offer	9
1.13.	Withdrawal of Offer	9
1.14.	Offer Results	10
1.15.	Award of Contract	10
1.16.	City's Right to Disqualify for Conflict of Interest	11
1.17.	Solicitation Transparency Policy.....	11
1.18.	Protest Process.....	12
1.19.	Public Record.....	13
1.20.	Late Offers	13
1.21.	Right to Disqualify	13
1.22.	Contract Award	14
1.23.	Equal Low Offer	14
1.24.	Evaluation of Competitive Sealed Offers.....	14
1.25.	Determining Responsiveness and Responsibility	14
1.26.	Detailed Evaluation of Offers and Determination of Competitive Range.....	15
1.27.	Discussions with Offerors in the Competitive Range	15
1.28.	Best and Final Offers (BAFO).....	16

1.29.	Fixed Offer Price Period	16
1.30.	Obtaining a Copy of the Solicitation and Addenda	16
1.31.	Business in Arizona	16
1.32.	Evaluation Criteria.....	17
2.	AGREEMENT	18
2.1.	Professional Services Agreement	18
2.2.	Term of Agreement.....	18
2.3.	Payment	19
2.4.	Scope of Work and Special Terms and Conditions	19
2.5.	Exhibit A – Scope of Work	19
2.6.	Exhibit B-1 - Investment Policy LTD	22
2.7.	Exhibit B-2 - Investment Policy MERP	23
2.8.	Standard Terms and Conditions.....	24
2.9.	Special Terms and Conditions.....	40
2.10.	Defense and Indemnification	50
2.11.	Insurance Requirements.....	51
3.	SUBMITTALS.....	54
3.1.	Submittals	54

Submittal Attachments:

Acceptance Form

Submittals - Offer Page

Submittals - References

Submittals - Conflict of Interest and Transparency

Submittals - Costs and Payments

Attachment A - Minimum Qualifications Questionnaire (Attached Separately)

Attachment B - Evaluation Questionnaire (Attached Separately)

Pricing Proposal (Attached Separately)

1. INSTRUCTIONS

1.1. Introduction

1.1.1. Summary

The City of Phoenix has established trust funds ("Trust Fund") which are administered by a Board as the trustee under a trust agreement created by the City for the purpose of funding the liability and expenses of certain programs. Under the Trust Agreement, the Board is obligated to maintain and invest the Trust Funds and has the authority to hire consultants for the purpose of helping the Board maintain and invest the Trust Fund; and the Board desires to hire such a consultant for that purpose.

1.1.2. Contact Information

Ben Arballo

Finance Procurement Officer

Email: benjamin.arballo@phoenix.gov

Phone: [\(602\) 262-4857](tel:(602)262-4857)

Department:

Finance Central Procurement

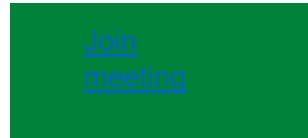
1.1.3. Timeline

Release Project Date	February 20, 2025
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**Pre-Offer
Conference (Non-
Mandatory)**

February 28, 2025 at 2:00 pm local Phoenix time.

When it's time, join your Webex meeting here.



More ways to join:

Join from the meeting link

<https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=mf6806a500a2ce696d63eb6976fdcc02b>

Join by meeting number

Meeting number (access code): 2868 891
5108

Meeting password: UEger3VdQ24

Tap to join from a mobile device (attendees only)

[+1-415-655-0001,28688915108##](tel:+1-415-655-0001,28688915108##) US Toll

Join by phone

+1-415-655-0001 US Toll

[Global call-in numbers](#)

Join from a video system or application

Dial [28688915108@cityofphoenix.webex.com](tel:28688915108@cityofphoenix.webex.com)

You can also dial 173.243.2.68 and enter your meeting number.

If you are a host, [click here](#) and login site to view host information.

Need help? Go to <https://help.webex.com>

Written Inquiries Due Date	March 7, 2025, 2:00pm
Proposal Submission Deadline	March 21, 2025, 2:00pm Please submit electronically to procurement@phoenix.gov

1.2. Description – Statement of Need

The City of Phoenix invites sealed offers for financial and investment advisory services for trust funds for a five-year (5) term, with two (2) option years commencing on or about 8/1/2025, 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.

1.3. Minimum Qualifications

The qualified and responsive Offeror must meet **all** minimum qualifications listed below. Should an Offeror fail to meet one of the minimum qualifications identified, the Offer will be disqualified as non-responsive.

Offeror must have been in operation a minimum of five (5) years. The Offeror’s normal business activity during the past five (5) years will have been for providing the goods or services in this solicitation under the Scope of Work (Exhibit A) for governmental entities or similar.

Offeror must provide proof of registration with the Securities and Exchange Commission (SEC) under Investment Advisors Act of 1940. Please provide a copy of your most recent Form ADV.

Offeror must currently manage at least \$5 billion of domestic fixed income assets for public entities.

Manage a minimum of three (3) portfolios comprising local agency assets within the last five (5) years.

1.4. Scope of Work and Special Terms and Conditions

Contractor will provide consulting services that will be in accordance with the Scope of Work as set forth in Scope of Work section, which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to the City. In performing

these services, Contractor will also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in Special Terms and Conditions section.

1.5. 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.

1.6. 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.

1.7. Exception

Offerors must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions will be deemed non-responsive and disqualified from further consideration. Offerors must conform to all the requirements specified in the solicitation. The City encourages Offerors to ask the Procurement Officer questions rather than including exception in their Offer.

1.8. Inquiries

All questions that arise relating to this solicitation should be submitted in writing by email to the Procurement Officer and must be received by the due date indicated in the Timeline. 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 addenda on the Procurement Website.

1.9. Addenda

The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix regarding this solicitation. Any changes to the plans, drawings, and specifications 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.

1.10. 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.

1.11. 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.

1.12. 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 electronically by email to procurement@phoenix.gov and the following information should be noted in the email:

- A. Offeror's Name
- B. Offeror's Address (as shown on the Certification Page)
- C. Solicitation Number
- D. Solicitation Title
- E. Offer Opening Date
- F. 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.
- G. 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.

1.13. 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.

1.14. Offer Results

Offers will be opened on the Offer due date, time and location indicated in the Timeline, 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.

1.15. 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.

1.16. City's Right to Disqualify for Conflict of Interest

The City 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 available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an Offer herein waives any right to object now or at any future time, before anybody or agency, including but not limited to, the City Council of the City of Phoenix or any court.

1.17. Solicitation Transparency Policy

- A. 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.
- B. 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.
- C. 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.
- D. 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.

- E. "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.

1.18. Protest Process

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
 - 1. Identification of the solicitation number;
 - 2. The name, address and telephone number of the protester;
 - 3. A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
 - 4. The form of relief requested; and
 - 5. The signature of the protester or its authorized representative.
- F. 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 administrative regulations and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

1.19. 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.

1.20. 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.

1.21. 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.

1.22. Contract Award

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

1.23. Equal Low Offer

Contract award will be made by putting the names of the tied vendors 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.

1.24. Evaluation of Competitive Sealed Offers

The City will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.

1.25. Determining Responsiveness and Responsibility

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

Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive. The criteria for responsiveness include the requirement for the Offeror to provide responses to the qualification requirements specified in **Attachment A – Minimum Qualification Questionnaire**.

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

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

The determination of Responsibility will consider responses to **Attachment A – Minimum Qualification Questionnaire** in accordance with the Minimum Qualifications established under Section 1.3 Minimum Qualifications.

The Procurement Officer, in consultation with legal counsel will review each Offer to determine if the Offeror is responsible. The City's determination as to whether an Offeror is responsible will

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

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

1.26. Detailed Evaluation of Offers and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings and which Offers are within the Competitive Range, when appropriate.

1.27. Discussions with Offerors in the Competitive Range

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

Demonstrations - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Phoenix. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

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

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Offeror about other Offers received in response to this solicitation. During

discussions with Offerors in the Competitive Range, the City will not give Offerors specific prices or specific financial requirements that Offerors must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace or otherwise unacceptable. Offerors will not be told of their relative rankings before Contract award.

1.28. Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Offeror in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Offer and make one BAFO.

If an Offeror's BAFO modifies its initial Offer, the modifications must be identified in the BAFO. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

1.29. Fixed Offer Price Period

All Offers shall be firm and fixed for a period of 180 calendar days from the solicitation opening date.

1.30. Obtaining a Copy of the Solicitation and Addenda

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Any interested Offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix, Finance Department, Central Procurement Division, 251 W Washington Street, 8th Floor, Phoenix, AZ. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their Offer.

1.31. 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.

1.32. Evaluation Criteria

In accordance with the Administrative Regulation 3.10. Competitive Sealed Proposal awards shall be made to the responsive and responsible Offeror(s) whose Offer is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in the relative order of importance and more details are provided in Scope of Work. The following evaluation criteria will be used to evaluate all Offers:

Evaluation Criteria #1: Experience and Qualifications	350 Points
Evaluation Criteria #2: Method of Approach	300 Points
Evaluation Criteria #3: Capacity	200 Points
Evaluation Criteria #4: Price/Cost	150 Points
Total Available Points:	1000 Points

Please refer to **Attachment B - Evaluation Questionnaire**, which details the information that must be submitted as part of the Offer.

2. AGREEMENT

2.1. Professional Services Agreement

**BETWEEN
THE CITY OF PHOENIX
AND
CONTRACTOR NAME**

This AGREEMENT is made and entered into this 8/1/2025, (“the Effective Date”), or as of the City Clerk date, whichever is later, by and between the City of Phoenix, Arizona, a municipal corporation of the State of Arizona (hereinafter referred to as “City”) and **insert legal name of Contractor here, insert state of corporation and correct business name – Corporation, LLC, etc that you have confirmed on the Arizona Corporation Commission website**, (hereinafter referred to as “ Contractor”).

RECITALS

- A. The City Manager of the City of Phoenix, Arizona, is authorized by the provisions of the City Charter to execute agreements for professional services.
- B. The City desires to obtain the services that are specifically set forth in this Agreement.
- C. The City procured these professional services in accordance with the Phoenix City Code and Administrative Regulation 3.10.
- D. Contractor possesses the skills and expertise necessary to provide such services as desired by the City.
- E. **This Agreement is authorized by the City Council (Ordinance Number and Agenda Number if applicable) Enter date.**

NOW, THEREFORE, it is agreed by and between the parties as follows:

2.2. Term of Agreement

- A. This Agreement begins on the Effective Date in the above introductory paragraph, and upon approval by the City, for a five-year (5) term , with two (2) option years.
- B. This Agreement will terminate upon the earliest occurrence of any of the following:
 - 1. reaching the end of the term exercised as set forth in A;
 - 2. completing the services set forth in the Scope of Work attached as 2.5 EXHIBIT A – SCOPE OF WORK (the “Services”);
 - 3. payment of the maximum compensation under Paragraph Payment of this Agreement; or
 - 4. termination pursuant to the provisions of this Agreement.

2.3. Payment

- A. Under this Agreement, the City will pay for Services at the rate(s) specified in the Pricing Proposal, with no additional charges for overhead, benefits, local travel or administrative support.
- B. Contractor will submit invoices quarterly. The invoice will be submitted free of mathematical errors and/or missing supporting documentation. All appropriate documentation will be provided that supports the charges reflected in the invoice. Upon finding of an error and/or missing documentation, the City will return the invoice to the Contractor. Contractor will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, hourly rate charged, and a detailed description of the Services performed. Failure of City to identify an error does not waive any of the City's rights.
- C. Invoices will be submitted to:
 - 1. invoices@phoenix.gov
 - 2. Carbon Copied: benjamin.kozik@phoenix.gov.

2.4. Scope of Work and Special Terms and Conditions

Contractor will provide consulting services that will be in accordance with the Scope of Work as set forth in EXHIBIT A – SCOPE OF WORK, which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to the City. In performing these services, Contractor will also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in 2.9.

2.5. Exhibit A – Scope of Work

2.5.1. Background

The City of Phoenix has established trust funds ("Trust Funds") which are administered by a Board of Trustees ("the Trustee", "the Board") as the trustee under a trust agreement ("Trust Agreement") created by the City for the purpose of funding the liability and expenses of the City of Phoenix's Long term Disability Program (the "LTD Program") and the Medical Expense reimbursement Plan (the "MERP"). Under the Trust Agreement, the Board is obligated to maintain and invest the Trust Funds. Additionally, a consultant will be shall be contracted for the purpose of helping the Board maintain and invest the Trust Fund.

2.5.2. Objective

The objective of this Request for Proposal is to award a contract(s) to a Consultant to provide the financial and investment advisory services to the Board and help the Board maintain and invest the Trust Funds of the LTD Program and the MERP in accordance with the Boards' Trust Agreements ("Trust Agreement"). The Consultant will oversee the performance of each investment fund.

2.5.3. General Requirements

The Consultant agrees and certifies to the Board that in performing the services required under the Scope of Work the Consultant is acting as a fiduciary with respect to the Trust Funds.

The Consultant shall:

- A. Assist the Board of Trustees under the Trust Agreement with review and update the investment policy, select financial and investment related service providers, as needed, and oversee the performance of each investment fund for the overall purpose of maintaining the trust corpus, while maximizing yield and minimizing risk.
- B. Be registered under the Securities and Exchange Commission (SEC) under Investment Advisors Act of 1940 and holds all licenses and authorizations necessary in the State of Arizona to provide the financial and investment advisory services described in the Scope of Work and shall maintain such registrations, licenses and authorizations as long as this agreement remains in effect.
- C. Maintain reasonable and prudent internal controls and procedures designed to prevent unauthorized persons from having access to any information, data, records or systems related to the Trust Fund.
- D. Review and comply with the Trust Agreement and investment policies.
- E. Assist with the development, implementation, review, and revision of the investment policy of the Trust.
- F. Provide the Trustees with recommendations in the selection of investment funds.
 1. Analyze and advise on the capabilities of proposed investment fund managers, including an analysis of each firm's personnel, investment philosophies and processes, internal risk controls, risk-adjusted performance, performance relative to benchmarks and peers, and fees.
 2. Periodically review the performance of investment fund managers through various methods, including interviews and on-site visits.
- G. Confirm, monitor, and advise the Trustees of any investment fund managers disqualified by watch list placements and termination.
 1. Provide recommendations for replacement of terminated investment fund managers.
- H. Assist the Trustees with the selection of a custodian.
 1. Review and advise on proposals received by the City.
 2. Consult the Trustees on the capabilities of the respondents, including an analysis of personnel, service levels, systems, reporting, accuracy, and responsiveness.
- I. Attend meetings related to the Trusts as requested.

- J. Comply with the investment policy as amended and incorporated by reference as [Exhibit B-1 and B-2](#).
- K. Be unrelated to, and independent from, all investment fund managers and custodians working for the City, and not have any conflict of interest with the City or any member of the Trustee.
- L. Serve as a fiduciary for the Trusts.

2.5.4. Deliverables

The Consultant shall:

- A. Provide annual asset allocation reviews and recommendations to the Trustees for Trust.
 - 1. Including an annual report of general economic conditions and forecasts of interest rates, inflation, and risk and returns for all asset classes.
 - 2. Discuss the methodologies, assumptions and constraints utilized for the model and the rationale for each.
- B. Prepare a summary report of quarterly performance analysis of each investment fund manager, including peer universe comparisons at the asset class total fund levels and provide quarterly reports setting forth such analysis.
- C. Provide an organizational chart of the firm and identify the organizational units which would be responsible for providing and coordinating services with the City under the resultant contract.
- D. Designate key staff member(s) who will be a primary contact for the firm for the entirety of the contract term.
- E. Provide research and reports to the Trustees and the City on the Trust and various investment topics and provide educational presentations to the Trustees and City staff as requested.
 - 1. Make recommendations to the applicable Trustees regarding each investment fund manager as needed.

2.6. Exhibit B-1 - Investment Policy LTD

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**INVESTMENT POLICY
FOR
THE CITY OF PHOENIX LONG TERM DISABILITY PROGRAM TRUST
NOVEMBER 1, 2022**

INTRODUCTION

This investment policy (the “Policy”) is hereby established for investing the proceeds of the City of Phoenix Long Term Disability Program (the “LTD Program”) Trust (the “Trust”) created by the City of Phoenix (the “City”) under that certain Trust Agreement for the benefit of eligible employees and elected officials of the City dated as of November 5, 2008. The purpose of this Policy is to define prudent investment strategies to be used by the Board of Trustees of the Trust (the “Trustee”) to achieve a rate of return that produces sufficient earnings over time to provide eligible employees and elected officials as determined by the City (collectively, the “Beneficiaries”) of the Trust with the benefits defined by the LTD Program.

SCOPE

This Policy applies solely to the investment of the Trust assets by the Trustee for the purpose of providing Beneficiaries of the Trust with the benefits defined by the LTD Program. The LTD Program provides monthly income to eligible disabled employees of up to 2/3 of basic monthly earnings. The benefit available from the Program is offset by income from other sources including COPERS benefits, Social Security, and workers’ compensation benefits.

INVESTMENT OBJECTIVES & CONSTRAINTS

The LTD Program is an open defined benefit plan that is currently approximately 150% funded. It is funded on a “pay as you go” basis by the City of Phoenix as the LTD Program’s sponsor. Contributions in excess of immediate benefit payments are saved into the Trust for long-term investment.

Return

- The primary long-term objective of the Trust is to realize an annualized rate of return, net of fees and expenses, that meets or exceeds the assumed actuarial assumption. The actuarial return assumption is currently 6.50% annualized, measured in nominal terms.
- The secondary objective of the Trust is to outperform the total custom portfolio benchmark, a blended benchmark consisting of individual benchmarks, weighted at their policy targets at the beginning-of-period, throughout market and economic cycles.
- The LTD Program’s liabilities are sensitive to payroll growth in the Beneficiaries base. The actuary currently assumes this payroll growth to be 5.0% per year. Payroll growth is the only way in which future inflation affects the Plan’s liabilities. Benefit payments are not indexed to inflation.

Risk

- Assume only as much portfolio risk as is necessary to pursue the return objectives with a focus on the preservation of the Trust’s capital.
- Invest with sufficient diversification to eliminate inordinate risks.
- There are no covenants, agreements, or restrictions on the portfolio’s short-term returns or funded status.

Taxes

- The Trust is not subject to taxation on income or investment gains.

Time Horizon

- The LTD Program is currently open to current Beneficiaries and thus has a perpetual time horizon.
- For investment purposes, the Trust's time horizon is long-term.

Liquidity

- Provide adequate liquidity for the LTD Program operating activities.
- The plan's funding source is stable, because the payments into the plan can be adjusted by the plan sponsor to ensure that the Trust remains 100% funded.
- The plan currently experiences net outflows averaging approximately \$300,000 per month.
- The City makes monthly required contributions to the Trust.

Legal Constraints

- The Trust will be administered consistent with the Phoenix City Code and the Trust Agreement.

Unique Constraints

- No particular unique investment constraints, in addition to those specified above, exist.

DELEGATION OF AUTHORITY

Delegation of authority shall be consistent with the Phoenix City Code and the Trust Agreement.

RESPONSIBILITIES

Board of Trustees

With respect to the Trust, the Trustee has the authority to select and oversee the Trust's investments in accordance with applicable law. Specifically, and without limitation, the Trustee's responsibilities include the following duties:

- The Board shall review proposed asset allocation strategies with its Investment Managers and Consultants and make investment policy recommendations regarding the same to the City Manager. The City Manager or designee shall adopt and amend the Investment Policy after review of the Board's recommendations.
- Select professional investment fund managers, brokers and administrators and negotiate terms and conditions of their services.
- Confirm proper custody of assets.
- Monitor performance of investments on a regular and ongoing basis.
- Monitor investment expenses charged to the Trust.

To assist in the performance of its duties under the Trust, the Trustee may retain an investment consultant as a co-fiduciary.

City Staff

The City Manager or designee, will:

- Adopt and amend the Investment Policy after review of the Board's recommendations.
- Effect all changes to the portfolio, including manager transitions and rebalancing.
- Negotiate all contracts that are required to implement the investment portfolio.
- Directly manage the Internally Managed Short-Term Investment Portfolio.

Financial Advisor

Any financial advisor appointed by the Trustee must be unrelated to, and independent from, all investment managers and custodians working for the City, and not have any conflicts of interest with the City or any member of the Trustee. The financial advisor will serve as a fiduciary for the Trust and shall meet periodically with the Trustee and City staff, as requested. Duties of the financial advisor shall include, but are not limited to the following:

- Assist with the development, implementation, review and revision of the Policy.
- Develop an asset allocation model for the Trust consistent with the risk and return objectives of the Trust Agreement and the Policy. Discuss the methodologies, assumptions, constraints and rationale utilized in the model. Review the asset allocation model at least every three years.
- Assist in the selection of financial- and investment-related service providers. Make recommendations to the Trustee and the City regarding qualified investment managers.
- Perform a quarterly performance analysis of each investment manager, including peer universe comparisons at the asset class and total fund levels, and provide quarterly reports setting forth such analysis. Include recommendations regarding each investment manager in such quarterly reports.
- Periodically review the performance of investment managers through various methods, including interviews and on-site visits.
- Assist in the selection of a custody service provider. Analyze and advise on the capabilities of potential custodians, including an analysis of each firm's personnel, service levels, systems, reporting, accuracy, and responsiveness.
- Provide research and reports on various investment topics, and provide educational presentations to the Trustee and City staff as requested.
- Attend meetings related to the Trust as requested.

Investment Managers

Investment managers are delegated the responsibility of investing and managing the Trust assets. The Trustee may elect to invest Trust assets in separately managed accounts, commingled funds or mutual funds. In all cases, the investment managers of these funds will have full discretion over the portfolio management decisions in accordance with the guidelines and objectives outlined in their respective Service Agreement, Trust Agreement or Prospectus.

Custodian

The custodian is responsible for the safekeeping of the Trust's assets. The specific duties and responsibilities of the custodian include maintaining separate accounts by legal registration,

valuing the holdings, collecting all income and dividends owed to the Trust, settling all transactions (buy-sell orders) initiated by the investment managers and/or the Trust, providing reports that detail transactions, cash flows, securities held and their current value and change in value of each security and the overall portfolio since the previous report. The custodian will perform its duties in accordance with the guidelines outlined in its Service Agreement.

STANDARD OF CARE

Prudent Investor Rule

All parties to the investment process shall act responsibly. The standard of care to be applied shall be the “prudent investor” rule which states:

1. A fiduciary shall invest and manage Trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the Trust. In satisfying this standard, exercise reasonable care, skill and caution.
2. Investment and management decisions respecting individual assets shall be evaluated not in isolation but in the context of the Trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the Trust.

Ethics and Conflicts of Interest

All participants involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the Trust assets, or that could impair their ability to make impartial decisions. These parties are required to reveal all relationships that could create or appear to create a conflict of interest in their unbiased involvement in the investment process to the chairperson of the Trustee and the Finance Director.

ASSET ALLOCATION

The asset allocation shall be determined by an asset allocation study performed by the financial advisor. The study shall include all asset classes deemed prudent and appropriate by the financial advisor based on the Investment Objectives & Constraints of the Trust identified herein. The resulting recommended asset allocation shall be presented to the Trustee by the financial advisor or City staff for approval. The financial advisor shall review the Trust’s asset allocation at least every three years and any recommended adjustments will be presented to the Trustee for approval.

The Trustee has established the strategic asset allocation strategy outlined in Attachment A (the “Allocation of Assets & Rebalancing Policy”). The Trustee has established targets and ranges for each asset class in the Allocation Strategy to meet the Objectives of the Trust while providing adequate flexibility to absorb normal market fluctuations and changes in the Trust assets.

Quarterly, the financial advisor shall review and compare actual portfolio holdings with specified asset percentage targets and ranges.

PERMITTED INVESTMENTS

The Trust assets may be invested externally in separately managed portfolios, mutual funds, commingled funds, and funds of funds or may be managed internally by the City.

All investment managers retained by the Trust, regardless of the investment vehicle, will be Registered Investment Advisers under the 1940 Investment Companies Act.

Separately Managed Portfolios

In accordance with the Objectives stated herein, each investment manager selected by the Trustee to manage a portion of the Trust assets shall have full discretion over portfolio management decisions within a set of investment guidelines to be provided to each investment manager, respectively. The guidelines shall specify eligible investments, minimum diversification standards, and applicable investment restrictions necessary for diversification and risk control. Those manager guidelines will be appended to this Policy. Investment managers do not have authority to depart from their guidelines without the written consent of the Trustee or the Finance Director.

Mutual Funds and Commingled Funds

Mutual Funds and Commingled Funds may be utilized as investment vehicles. Mutual fund investments shall be invested in the lowest-cost share class available to the Trust. A maximum of 20% of the Trust assets may be invested in any one mutual or commingled fund. Mutual Funds and Commingled Funds are understood to be governed by their individual fund prospectuses.

Internally Managed Short-Term Portfolio Assets

The Finance Director or his designee may manage a portion of the Trust assets needed to maintain adequate operational liquidity. These funds shall be invested in U.S. Treasury securities, U.S. Government Agency securities, commercial paper with a minimum rating of A1/P1 or equivalent at the time of purchase, municipal securities with a minimum rating of AA-/Aa3 at the time of purchase, repurchase agreements, certificates of deposit and money market mutual funds. The City may not purchase short-term financial assets considered to contain speculative characteristics (uncertainty of principal and/or interest). The City also may not invest more than 10% of the internal short-term funds' market value in the obligations of a single issuer, with the exception of U.S. Treasury and Government Agency securities and money market mutual funds. Total portfolio duration shall not exceed one year.

SECURITIES LENDING

An agreement may be made with the custodian, or other financial institution approved by the Trustee, to loan securities on behalf of the Trust. Securities that are loaned shall be fully collateralized in cash or other acceptable securities having at least 100% of the market value of the loaned security.

USE OF DERIVATIVES

In separate accounts, the investment manager(s) shall not use derivatives to increase portfolio risk above the level that could be achieved in the portfolio using only traditional investment securities. Moreover, the investment manager will not use derivatives to acquire exposure to changes in the value of assets or indices that, by themselves, would not be purchased for the portfolio. Under no circumstances will the investment manager undertake an investment that is uncovered or leveraged to the extent that it would cause the portfolio to violate the investment manager's guidelines.

PERFORMANCE MEASUREMENT

The Trust should be designed to achieve a total return, net of fees and expenses, that meets or exceeds the blended benchmark consisting of the individual benchmarks for each investment manager listed below, weighted at their asset allocation targets at the beginning-of-period, throughout market and economic cycles. Additionally, the Trust will be compared to a universe of peer returns.

Objective	Benchmark	Description
Relative to Investment Benchmark	Blended index	A time-weighted return compared to a blended index, which will be constructed based on the target allocation of the Trust over time. The intent of this objective is to seek competitive investment performance versus relevant capital market measures.
Comparative	Peer universe median	The comparative performance objective is to achieve a total rate of return that exceeds the median return of a peer universe of similar type and size funds.

Performance measurement shall be based on total rate of return, net of investment manager fees, and shall be monitored over one full market cycle, or five years, as determined appropriate by the financial advisor.

Actively Managed Funds

- Total return to exceed the benchmark
- Rank above median in a universe of peers (if a suitable peer group is available)

Passively Managed (Index) Funds

- Total return comparable to the benchmark (with reasonable allowance for fees)
- Minimal tracking error relative to the benchmark

Investments

	Benchmark	Description
U.S. Equity	Russell 1000, S&P 500, Russell 2500 or other comparable index with appropriate capitalization and style	U.S. equity funds invest in U.S. stocks of varying characteristics, primarily across large, mid and small capitalizations and value, core and growth styles.
Non-U.S. Equity	MSCI ACW ex-U.S. or other comparable index with appropriate region, capitalization and style	Non-U.S. equity funds invest in non-U.S. stocks of varying characteristics, primarily across large, mid and small capitalizations, value core and growth styles and developed, emerging and frontier regions.
Fixed Income	Bloomberg-Barclays U.S. Aggregate or other comparable index with appropriate duration and style	A fixed income fund invests in a variety of sectors of the bond market, including corporate and government debt instruments, typically investment grade and within the U.S. Managers may allocate a portion of assets to “plus” sector fixed income, including high yield and non-U.S. bonds.

	Benchmark	Description
Marketable Alternatives	Peer, blended with a similar allocation, absolute (e.g. T-Bills + 5%) or other comparable index	Marketable alternatives strategies are intended to provide additional diversification within an investment portfolio and typically feature a low beta and/or low correlation to traditional asset classes. Marketable alternatives encompass a wide range of different strategies (e.g. tactical asset allocation, tactical trading and hedge funds of funds) and may employ moderate amounts of leverage as well as the ability to hold short positions in securities.
Real Estate	NCREIF Open-End Diversified Core Equity, Wilshire Real Estate Securities or other comparable index	Real estate funds may invest in public real estate companies, REITs, private real estate or private real estate debt. Common property types include office buildings, retail centers, industrial parks, apartment complexes and hotels.

PERFORMANCE REVIEWS, TERMINATION AND REPLACEMENT

Although judgment on performance will be made over successive rolling periods, City staff and the financial advisor shall review performance at least semiannually.

If an investment manager or fund fails to perform at the investment return levels outlined in this Policy, or has exhibited significant qualitative factor changes, a replacement investment manager or fund search may be initiated. If after completion of the search it remains clear that the investment manager or fund should be replaced, the process of termination, as well as the retention of a replacement investment manager or fund, shall commence upon approval of the Trustee.

This section is meant to be a guideline to managing investment managers and funds, and many factors and considerations will be evaluated prior to any action.

REVIEW AND MODIFICATION OF INVESTMENT POLICY

The financial advisor and the City shall review the Policy at least annually and determine if modifications are necessary or desirable due to changes in capital markets, LTD Program objectives, or other relevant factors. Any modifications will be presented to the Trustee.

ATTACHMENT A

ALLOCATION OF ASSETS & REBALANCING POLICY

The target asset allocation for the Trust shall be approved by the Trustee upon the recommendation of City staff and the financial advisor to help facilitate the long-term Investment Objectives & Constraints while minimizing risk. The Trust assets shall be divided into the following asset classes:

Asset Class	Allowable Minimum Percent	Rebalancing Range Minimum	Target Percent	Rebalancing Range Maximum	Allowable Maximum Percent
U.S. Equity	30%	32%	35%	38%	40%
International Equity	25%	27%	30%	33%	35%
Fixed Income	15%	18%	20%	22%	25%
Marketable Alternatives	0%	9%	10%	11%	20%
Real Estate	0%	4%	5%	6%	10%

The portfolio will be evaluated for rebalancing on a quarterly basis. The Rebalancing Ranges noted above will serve as triggers for the portfolio to be actively rebalanced, should an asset class fall outside the range indicated. The ranges are determined as plus or minus 10% of an asset class's target percentage weighting in the portfolio, subject to a minimum of one percentage point plus and minus the target. The City's Finance Director or his or her designee will rebalance the investment portfolio back to the target percentages if the investment portfolio is found to be outside of the target ranges, unless circumstances prevail that would make such rebalancing of the portfolio not in the best interest of the Plan as determined by the financial advisor and the Finance Director or designee. In addition, the Finance Director or designee has the authority to rebalance the investment portfolio when deemed appropriate, such as in response to significant incoming or outgoing cash flows, material market fluctuations, or at the Trustee's direction.

2.7. Exhibit B-2 - Investment Policy MERP

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**INVESTMENT POLICY
FOR
THE CITY OF PHOENIX MEDICAL EXPENSE REIMBURSEMENT PLAN TRUST
NOVEMBER 1, 2022**

INTRODUCTION

This investment policy (the “Policy”) is hereby established for investing the proceeds of the Medical Expense Reimbursement Plan (the “MERP”) Trust (the “Trust”) created by the City of Phoenix (the “City”) under that certain Trust Agreement for Beneficiaries under the Medical Expense Reimbursement Plan dated as of July 14, 2008. The purpose of this Policy is to define prudent investment strategies to be used by the Board of Trustees of the Trust (the “Trustee”) to achieve a rate of return that produces sufficient earnings over time to provide eligible retirees, their survivors and dependents and such other eligible persons as determined by the City (collectively, the “Beneficiaries”) of the Trust with the benefits defined by the MERP.

SCOPE

This Policy applies solely to the investment of the Trust assets by the Trustee for the purpose of reimbursing Beneficiaries of the Trust for qualified medical expenses as defined by the Internal Revenue Code of 1986, as and if amended.

INVESTMENT OBJECTIVES & CONSTRAINTS

The Plan is a closed defined benefit plan, which has since been replaced by the Post Employment Health Plan (PEHP) defined contribution plan. Contributions in excess of immediate benefit payments are saved into the Trust for long-term investment.

Currently, the Plan is approximately 47% funded. It is funded on a 30-year amortization schedule that will terminate in 2043, at which point the Plan will be 100% funded.

Return

- The primary long-term objective of the Trust is to realize an annualized rate of return, net of fees and expenses, that meets or exceeds the assumed actuarial assumption. The actuarial return assumption is currently 6.50% annualized, measured in nominal terms.
- The secondary objective of the Trust is to outperform the total custom portfolio benchmark, a blended benchmark consisting of individual benchmarks, weighted at their policy targets at the beginning-of-period, throughout market and economic cycles.
- Benefit payments are fixed. The Plan’s liability is not sensitive to inflation.

Risk

- Assume only as much portfolio risk as is necessary to pursue the return objectives with a focus on preservation of Trust assets
- Invest with sufficient diversification to eliminate inordinate risks.
- There are no covenants, agreements, or restrictions on the portfolio’s short-term returns or funded status.

Taxes

- The Trust is not subject to taxation on income or investment gains.

Time Horizon

- The Plan is currently closed and no new liabilities will accrue.
- For investment purposes, the Trust's time horizon is long-term.

Liquidity

- Provide adequate liquidity for the MERP Program operating activities.
- The funding source of the Plan and Trust is stable. Required contributions according to the 30-year amortization schedule are made by the City. The Trust's net cash flows on an annual basis depend on the City's budgeting process and the claims experience of the Plan. Although net cash flows could be positive or negative, in the long run, net cash flows are expected to be positive as the plan moves along its funding amortization schedule, culminating in 100% funded in 2043.
- The Trust does not have any near-term liquidity requirements.

Legal Constraints

- The Trust will be administered consistent with the Phoenix City Code and the Trust Agreement.

Unique Constraints

- No particular unique investment constraints, in addition to those specified above, exist.

DELEGATION OF AUTHORITY

Delegation of authority shall be consistent with the Phoenix City Code and the Trust Agreement.

RESPONSIBILITIES

Board of Trustees

With respect to the Trust, the Trustee has the authority to select and oversee the Trust's investments in accordance with applicable law. Specifically, and without limitation, the Trustee's responsibilities include the following duties:

- The Board shall review proposed asset allocation strategies with its Investment Managers and Consultants and make investment policy recommendations regarding the same to the City Manager. The City Manager or designee shall adopt and amend the Investment Policy after review of the Board's recommendations.
- Determine the allocation, number, type and conditions of investments to utilize.
- Select professional investment fund managers, brokers and administrators and negotiate terms and conditions of their services.
- Confirm proper custody of assets.
- Monitor performance of investments on a regular and ongoing basis.
- Monitor investment expenses charged to the Trust.

To assist in the performance of its duties under the Trust, the Trustee may retain an investment consultant as a co-fiduciary.

City Staff

The City Manager or designee, will:

- Adopt and amend the Investment Policy after review of the Board's recommendations.
- Effect all changes to the portfolio, including manager transitions and rebalancing.
- Negotiate all contracts that are required to implement the investment portfolio.
- Directly manage the Internally Managed Short-Term Investment Portfolio.

Financial Advisor

Any financial advisor appointed by the Trustee must be unrelated to, and independent from, all investment managers and custodians working for the City, and not have any conflicts of interest with the City or any member of the Trustee. The financial advisor will serve as a fiduciary for the MERP Trust and shall meet periodically with the Trustee and City staff, as requested. Duties of the financial advisor shall include, but are not limited to the following:

- Assist with the development, implementation, review and revision of the Policy.
- Develop an asset allocation model for the Trust consistent with the risk and return objectives of the Trust Agreement and the Policy. Discuss the methodologies, assumptions, constraints and rationale utilized in the model. Review the asset allocation model at least every three years.
- Assist in the selection of financial- and investment-related service providers. Make recommendations to the Trustee and the City regarding qualified investment managers.
- Perform a quarterly performance analysis of each investment manager, including peer universe comparisons at the asset class and total fund levels, and provide quarterly reports setting forth such analysis. Include recommendations regarding each investment manager in such quarterly reports.
- Periodically review the performance of investment managers through various methods, including interviews and on-site visits.
- Assist in the selection of a custody service provider. Analyze and advise on the capabilities of potential custodians, including an analysis of each firm's personnel, service levels, systems, reporting, accuracy, and responsiveness.
- Provide research and reports on various investment topics, and provide educational presentations to the Trustee and City staff as requested.
- Attend meetings related to the Trust as requested.

Investment Managers

Investment managers are delegated the responsibility of investing and managing Trust assets. The Trustee may elect to invest Trust assets in separately managed accounts, commingled funds or mutual funds. In all cases, the investment managers of these funds will have full discretion over the portfolio management decisions in accordance with the guidelines and objectives outlined in their respective Service Agreement, Trust Agreement or Prospectus.

Custodian

The custodian is responsible for the safekeeping of the Trust's assets. The specific duties and responsibilities of the custodian include maintaining separate accounts by legal registration, valuing the holdings, collecting all income and dividends owed to the Trust, settling all transactions (buy-sell orders) initiated by the investment managers and/or the Trust, providing reports that detail transactions, cash flows, securities held and their current value and change in value of each security and the overall portfolio since the previous report. The custodian will perform its duties in accordance with the guidelines outlined in its Service Agreement.

STANDARD OF CARE

Prudent Investor Rule

All parties to the investment process shall act responsibly. The standard of care to be applied shall be the "prudent investor" rule which states:

1. A fiduciary shall invest and manage Trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the Trust. In satisfying this standard, exercise reasonable care, skill and caution.
2. Investment and management decisions respecting individual assets shall be evaluated not in isolation but in the context of the Trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the Trust.

Ethics and Conflicts of Interest

All participants involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the Trust assets, or that could impair their ability to make impartial decisions. These parties are required to reveal all relationships that could create or appear to create a conflict of interest in their unbiased involvement in the investment process to the chairperson of the Trustee and the Finance Director.

ASSET ALLOCATION

The asset allocation shall be determined by an asset allocation study performed by the financial advisor. The study shall include all asset classes deemed prudent and appropriate by the financial advisor based on the Investment Objectives & Constraints of the Trust identified herein. The resulting recommended asset allocation shall be presented to the Trustee by the financial advisor or City staff for approval. The financial advisor shall review the Trust's asset allocation at least every three years, or at the request of the Board, and any recommended adjustments will be presented to the Trustee for approval.

The Trustee has established the strategic asset allocation strategy outlined in Attachment A (the "Allocation of Assets & Rebalancing Policy"). The Trustee has established targets and ranges for each asset class in the Allocation Strategy to meet the Objectives of the Trust while providing adequate flexibility to absorb normal market fluctuations and changes in the Trust assets.

Quarterly, the financial advisor shall review and compare actual portfolio holdings with specified asset percentage targets and ranges.

PERMITTED INVESTMENTS

The Trust assets may be invested externally in separately managed portfolios, mutual funds, commingled funds, and funds of funds, or may be managed internally by the City.

All investment managers retained by the Trust, regardless of the investment vehicle, will be Registered Investment Advisers under the 1940 Investment Companies Act.

Separately Managed Portfolios

In accordance with the Objectives stated herein, each investment manager selected by the Trustee to manage a portion of the Trust assets shall have full discretion over portfolio management decisions within a set of investment guidelines to be provided to each investment manager, respectively. The guidelines shall specify eligible investments, minimum diversification standards, and applicable investment restrictions necessary for diversification and risk control. Those manager guidelines will be appended to this Policy. Investment managers do not have authority to depart from their guidelines without the written consent of the Trustee or the Finance Director.

Mutual Funds and Commingled Funds

Mutual Funds and Commingled Funds may be utilized as investment vehicles. Mutual fund investments shall be invested in the lowest-cost share class available to the Trust. A maximum of 20% of the Trust assets may be invested in any one mutual or commingled fund. Mutual Funds and Commingled Funds are understood to be governed by their individual fund prospectuses.

Short-Term Portfolio Assets

The Finance Director or his designee shall manage a portion of the Trust assets needed to maintain adequate operational liquidity. These funds shall be invested in U.S. Treasury securities, U.S. Government Agency securities, commercial paper with a minimum rating of A1/P1 or equivalent at the time of purchase, municipal securities with a minimum rating of AA-/Aa3 at the time of purchase, repurchase agreements, certificates of deposit and money market mutual funds. The City may not purchase short-term financial assets considered to contain speculative characteristics (uncertainty of principal and/or interest). The City also may not invest more than 10% of the internal short-term funds' market value in the obligations of a single issuer, with the exception of U.S. Treasury and Government Agency securities and money market mutual funds. Total portfolio duration shall not exceed one year.

SECURITIES LENDING

An agreement may be made with the custodian, or other financial institution approved by the Trustee, to loan securities on behalf of the Trust. Securities that are loaned shall be fully collateralized in cash or other acceptable securities having at least 100% of the market value of the loaned security.

USE OF DERIVATIVES

In separate accounts, the investment manager(s) shall not use derivatives to increase portfolio risk above the level that could be achieved in the portfolio using only traditional investment securities. Moreover, the investment manager will not use derivatives to acquire exposure to changes in the value of assets or indices that, by themselves, would not be purchased for the portfolio. Under no circumstances will the investment manager undertake an investment that is uncovered or leveraged to the extent that it would cause the portfolio to violate the investment manager's guidelines.

PERFORMANCE MEASUREMENT

The Trust should be designed to achieve a total return, net of fees and expenses, that meets or exceeds the blended benchmark consisting of the individual benchmarks for each investment manager listed below, weighted at their asset allocation targets at the beginning-of-period, throughout market and economic cycles. Additionally, the Trust will be compared to a universe of peer returns.

Objective	Benchmark	Description
Relative to Investment Benchmark	Blended index	A time-weighted return compared to a blended index, which will be constructed based on the target allocation of the Trust over time. The intent of this objective is to seek competitive investment performance versus relevant capital market measures.
Comparative	Peer universe median	The comparative performance objective is to achieve a total rate of return that exceeds the median return of a peer universe of similar type and size funds.

Performance measurement shall be based on total rate of return, net of investment manager fees, and shall be monitored over one full market cycle, or five years, as determined appropriate by the financial advisor.

Actively Managed Funds

- Total return to exceed the benchmark
- Rank above median in a universe of peers (if a suitable peer group is available)

Passively Managed (Index) Funds

- Total return comparable to the benchmark (with reasonable allowance for fees)
- Minimal tracking error relative to the benchmark

Investments

	Benchmark	Description
U.S. Equity	Russell 1000, S&P 500, Russell 2500 or other comparable index with appropriate capitalization and style	U.S. equity funds invest in U.S. stocks of varying characteristics, primarily across large, mid and small capitalizations and value, core and growth styles.
Non-U.S. Equity	MSCI ACW ex-U.S. or other comparable index with appropriate region, capitalization and style	Non-U.S. equity funds invest in non-U.S. stocks of varying characteristics, primarily across large, mid and small capitalizations, value core and growth styles and developed, emerging and frontier regions.

	Benchmark	Description
Fixed Income	Bloomberg-Barclays U.S. Aggregate or other comparable index with appropriate duration and style	A fixed income fund invests in a variety of sectors of the bond market, including corporate and government debt instruments, typically investment grade and within the U.S. Managers may allocate a portion of assets to “plus” sector fixed income, including high yield and non-U.S. bonds.
Marketable Alternatives	Peer, blended with a similar allocation, absolute (e.g. T-Bills + 5%) or other comparable index	Marketable alternatives strategies are intended to provide additional diversification within an investment portfolio and typically feature a low beta and/or low correlation to traditional asset classes. Marketable alternatives encompass a wide range of different strategies (e.g. tactical asset allocation, tactical trading and hedge funds of funds) and may employ moderate amounts of leverage as well as the ability to hold short positions in securities.
Real Estate	NCREIF Open-End Diversified Core Equity, Wilshire Real Estate Securities or other comparable index	Real estate funds may invest in public real estate companies, REITs, private real estate or private real estate debt. Common property types include office buildings, retail centers, industrial parks, apartment complexes and hotels.

PERFORMANCE REVIEWS, TERMINATION AND REPLACEMENT

Although judgment on performance will be made over successive rolling periods, City staff and the financial advisor shall review performance at least semiannually.

If an investment manager or fund fails to perform at the investment return levels outlined in this Policy, or has exhibited significant qualitative factor changes, a replacement investment manager or fund search may be initiated. If after completion of the search it remains clear that the investment manager or fund should be replaced, the process of termination, as well as the retention of a replacement investment manager or fund, shall commence upon approval of the Trustee.

This section is meant to be a guideline to managing investment managers and funds, and many factors and considerations will be evaluated prior to any action.

REVIEW AND MODIFICATION OF INVESTMENT POLICY

The financial advisor and the City shall review the Policy at least annually and determine if modifications are necessary or desirable due to changes in capital markets, MERP objectives, or other relevant factors. Any recommended changes will be presented to the Trustee.

ATTACHMENT A

ALLOCATION OF ASSETS & REBALANCING POLICY

The target asset allocation for the Trust shall be approved by the Trustee upon the recommendation of City staff and the financial advisor to help facilitate the long-term Objectives of the Trust while minimizing risk. The Trust assets shall be divided into the following asset classes:

Asset Class	Allowable Minimum Percent	Rebalancing Range Minimum	Target Percent	Rebalancing Range Maximum	Allowable Maximum Percent
U.S. Equity	30%	32%	35%	38%	40%
International Equity	25%	27%	30%	33%	35%
Fixed Income	15%	18%	20%	22%	25%
Marketable Alternatives	0%	9%	10%	11%	20%
Real Estate	0%	4%	5%	6%	10%

The portfolio will be evaluated for rebalancing on a quarterly basis. The Rebalancing Ranges noted above will serve as triggers for the portfolio to be actively rebalanced, should an asset class fall outside the range indicated. The ranges are determined as plus or minus 10% of an asset class's target percentage weighting in the portfolio, subject to a minimum of one percentage point plus and minus the target. The City's Finance Director or her designee will rebalance the investment portfolio back to the target percentages if the investment portfolio is found to be outside of the target ranges, unless circumstances prevail that would make such rebalancing of the portfolio not in the best interest of the Plan as determined by the financial advisor and the Finance Director or designee. In addition, the Finance Director or designee has the authority to rebalance the investment portfolio when deemed appropriate, such as in response to significant incoming or outgoing cash flows, material market fluctuations, or at the Trustee's direction.

2.8. Standard Terms and Conditions

2.8.1. 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.

2.8.2. 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.

2.8.3. *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.

2.8.4. Governing Law; Forum; Venue

This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

2.8.5. Audit/Records

- A. The City reserves the right, at reasonable times, to audit Contractor's books and records relative to the performance of service under this Agreement. All records pertaining to this Agreement will be kept on a generally accepted accounting basis for a period of five years following termination of the Agreement.

- B. If, following an audit of this Agreement, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, the Contractor will be liable for reimbursement of the reasonable, actual cost of the audit.

2.8.6. Independent Contractor Status; Employment Disclaimer

- A. The parties agree that Contractor is providing the Services under this Agreement on a part-time and/or temporary basis and that the relationship created by this Agreement is that of independent contractors. Neither Contractor nor any of Contractor's agents, employees or helpers will be deemed to be the employee, agent, or servant of the City. The City is only interested in the results obtained under this Agreement; the manner, means and mode of completing the same are under the sole control of Contractor.
- B. This Agreement is not intended to constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in this Agreement. The parties agree that no individual performing under this Agreement on behalf of Contractor will be considered a City employee, and that no rights of City Civil Service, City retirement or City personnel rules will accrue to such individual. Contractor will have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and will save and hold harmless the City with respect thereto.

2.8.7. Costs and Payments

- A. Under this Agreement, the City will pay for services at a fixed or hourly bill rate of \$dollars cents (\$hourly or fixed rate USD) per hour, with no additional charges for overhead, benefits, local travel or administrative support. The total amount to be remitted by the City to Consultant for all Services satisfactorily performed under this Agreement shall not exceed WRITE OUT THE AMOUNT Dollars USD (\$NUMBER AMOUNT USD) per year including reasonable and necessary travel expenses (if such travel expenses are approved in advance by the City and included in the Fee Schedule (Exhibit D)). Payments shall be made in proportion to the Services performed and no more than ninety percent (90%) of the total contract price shall be paid before the work is totally completed and accepted by the City.
- B. City will pay any sales or use taxes resulting from this Agreement. Consultant shall be solely responsible for payment of taxes based on Consultant's income. Consultant agrees that on all billings, invoices, books and records relating to this Agreement, Consultant will state the charges imposed for the sale, transfer and licensing of tangible personal property separately from charges imposed for professional, personal and technological services including, but not limited to, software installation, modification, training, consulting and technical telephone support.

- C. **Invoices.** Consultant shall submit invoices in arrears, on every other week basis. Each invoice will clearly note any Purchase Order number and be accompanied with itemized receipts which include approved timesheets. The invoice will be submitted free of mathematical errors and/or missing supporting documentation. All appropriate documentation supporting the charges reflected in the invoice will be provided with the invoice. Upon finding of an error and/or missing documentation, the City may return the invoice to the Consultant. Consultant will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, hourly rate charged, and a detailed description of the Services performed. Oversight by the City in identifying an error does not result in waiver of any of the City's rights. All properly submitted invoices will be paid promptly after the City's receipt of the invoice.
- D. **Commencement of Work.** The Consultant is cautioned not to commence any billable work or provide any material or service under this Agreement until Consultant receives a fully executed contract document or otherwise directed to do so, in writing by the City.
- E. **Late Submission of Claim by Contactor.** The City will not honor any invoices or claims which are tendered one (1) year after the last item of the account accrued.
- F. **No Advance Payments.** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received.
- G. **Fund appropriation Contingency.** The Consultant recognizes that this Agreement shall commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Consultant and the City herein recognize that the continuation of any Agreement after the close of any given fiscal year of the City of Phoenix, which fiscal year ends on June 30 of each year, shall be subject to the approval of the budget of the City of Phoenix 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.
- H. **IRS W9 Form.** In order to receive payment, the Consultant shall have a current IRS W-9 form on file with the City of Phoenix. The form can be downloaded at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

2.8.8. *Contract Changes*

- A. **Contract Amendments:** Whenever an addition, deletion or alteration to the Services described in EXHIBIT A – SCOPE OF WORK substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the City and Contractor before such addition, deletion or alteration will be performed. Changes to the Services may be made and the compensation to be paid to Contractor may be adjusted by mutual agreement,

but in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood and agreed that no claim for extra work done or materials furnished by Contractor will be allowed except as provided herein, nor will Contractor do any work or furnish any materials not covered by this Agreement unless first authorized in writing. Any work or materials furnished by Contractor without prior written authorization will be at Contractor's risk, cost and expense, and Contractor agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

- B. **Non-Assignability:** This Agreement is in the nature of a personal services contract and Consultant shall have no power to assign this Agreement, including any right, duty, or obligation of Consultant under this Agreement, without the prior written consent of the City. Consultant shall not subcontract with any third party for any component of the Services without the prior written consent of the City. Any attempt to assign or subcontract without the City's prior written consent shall be void. An essential consideration provided to the City by Consultant to induce the City to enter into the Agreement is Consultant's representation that the individual(s) performing services shall include Consultant's principals as selected through the Qualified Vendor solicitation process. Therefore, should such named individual(s) sever their relationship with Consultant, or otherwise be unavailable to carry out Consultant's duties under this Agreement for a period of time deemed to be excessive by the City in its sole and absolute discretion, then the City may, without notice, immediately terminate this Agreement for cause.
- 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.

2.8.9. 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.

2.8.10. 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.

2.8.11. *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. Immediately upon receiving a written notice to terminate or suspend Services, Contractor will:
 - Discontinue advancing the work in progress, or such part that is described in the notice.
 - Deliver to the City all collected raw data, draft reports, preliminary reports, working papers, estimates and forecasts entirely or partially completed, together with all unused materials supplied by the City.
 - Appraise the work it has completed and submit its appraisal to the City for evaluation.
 - Be paid in full the pro rata value for services performed to the date of its receipt of the Notice of Termination, including reimbursement for all reasonable costs and expenses incurred by Contractor in terminating the work, including demobilization of field service. No payment will be made for loss of anticipated profits or unperformed services.
3. 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. **Final Payment:** The City shall make final payment for all Services performed and accepted within sixty (60) days after Contractor has delivered to the City any final progress reports, documentation, materials and evidence of costs and disbursement as required under this Agreement.
- D. **Temporary Suspension.** The City may, by written notice, direct Consultant to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Consultant in performance, and such additional expense is not due to fault or negligence of Consultant, the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Consultant for a price adjustment must be supported by appropriate documentation asserted promptly after Consultant has been notified to suspend performance.
- E. **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.

2.8.12. Notice

All notices, consents, approvals, and other communications ("Notice") between the City and Contractor that are required to be given under this Contract shall be in writing and given by (1) personal delivery, (2) email with return receipt requested (read receipt), (3) facsimile transmittal with delivery confirmation, (4) prepaid delivery to any commercial air courier or express delivery service, or (5) registered or certified mail, postage prepaid and return receipt requested, through the United States Postal Service.

Notices to the City shall be sent to: City of Phoenix Finance Department, Procurement Division Procurement@phoenix.gov.

Notice to Contractor shall be sent to the person at the mailing address, email address, or fax number listed by Contractor in its Offer in Submittal Forms - Offer Page.

2.8.13. 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.

2.8.14. Conflicts of Interest

- A. Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Agreement upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Agreement without liability, including any such commission, percentage, brokerage or contingent fee.
- B. The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.
- C. Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Agreement, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Agreement, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Agreement, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.
- D. This Agreement is subject to the requirements of Arizona Revised Statutes §38-511.

2.8.15. Waiver of Claims for Anticipated Profits

Contractor waives any claims against the City and its officers, officials, agents and employees for loss of anticipated profits caused by any suit or proceeding, directly or indirectly, involving any part of this Agreement.

2.8.16. 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.

2.8.17. 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.

2.8.18. 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.

2.8.19. 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.

2.8.20. 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.

2.8.21. 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.

2.8.22. 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.

2.8.23. 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.

2.8.24. Claims or Demands Against the City

- A. Contractor acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and

12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

- B. Moreover, nothing in this Agreement will constitute a dispute resolution process, an administrative claims process, or contractual term as used in Arizona Revised Statutes § 12-821.01(C), sufficient to affect the date on which the cause of action accrues within Arizona Revised Statutes § 12-821.01(A) and (B).

2.8.25. *No Third-Party Beneficiaries*

The parties expressly agree that this Agreement is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

2.9. Special Terms and Conditions

2.9.1. *Term of Contract*

The term of this Contract will commence on or about 8/1/2025 and will continue for a period of five (5) years thereafter with two (2) option years.

2.9.2. *Price*

All prices submitted shall be firm and fixed for the initial five years 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.

2.9.3. *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.

2.9.4. *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

2.9.5. 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.

2.9.6. 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.

2.9.7. 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.

2.9.8. 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.

2.9.9. 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.

2.9.10. 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.

2.9.11. *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.

2.9.12. *Contacts with Third Parties*

- A. Contractor or its subcontractors will not contact third parties to provide any information in connection to the Services provided under this Agreement without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Agreement or any other prior or existing Agreement with the City, Contractor or its subcontractors will promptly inform the City giving the particulars of the information sought and will not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section will survive the termination of this Agreement.
- B. Contractor agrees that the requirements of this Section will be incorporated into all subcontractor agreements entered into by the Contractor. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

2.9.13. *SBE / DBE Utilization*

The City extends to each individual, firm, vendor, supplier, contractor and subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of small and/or disadvantaged businesses to reflect both the industry and community ethnic composition. The use of such businesses is encouraged whenever practical.

2.9.14. *Fiscal Year Clause*

The City’s fiscal year begins July 1st and ends June 30th each calendar year. The City may make payment for services rendered or costs encumbered only during a fiscal year and for a period of 60 days immediately following the close of the fiscal year, under the provisions of Arizona Revised Statutes §42-17108. Therefore, Contractor must submit billings for services performed or costs incurred prior to the close of a fiscal year within ample time to allow payment within this 60-day period.

2.9.15. *Final Payment*

- A. **PAYMENT:** The City will make final payment for all Services performed and accepted within 60 days after Contractor has delivered to the City any final progress reports,

documentation, materials and evidence of costs and disbursement as required under this Agreement. Any use by the City of preliminary reports, raw data or other incomplete material returned by Contractor will be at the City's sole risk for such use.

- B. **TEMPORARY SUSPENSION:** The City may, by written notice, direct Contractor to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Contractor in performance, and not due to fault or negligence of Contractor, the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Contractor for a price adjustment must be supported by appropriate documentation asserted promptly after Contractor has been notified to suspend performance.

2.9.16. *Professional Competency*

- A. **QUALIFICATIONS:** Contractor represents that it is familiar with the nature and extent of this Agreement, the Services, and any conditions that may affect its performance under this Agreement. Contractor further represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is equipped, organized, and financed to perform such Services.
- B. **LEVEL OF CARE AND SKILL:** Services provided by Contractor will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of Contractor's profession currently practicing in the same industry under similar conditions. Acceptance or approval by the City of Contractor's work will in no way relieve Contractor of liability to the City for damages suffered or incurred arising from the failure of Contractor to adhere to the aforesaid standard of professional competence.

2.9.17. *Specific Performance*

Contractor agrees that in the event of a breach by Contractor of any material provision of this Agreement, the City will, upon proper action instituted by it, be entitled to a decree of specific performance thereof according to the terms of this Agreement. In the event the City will elect to treat any such breach on the part of Contractor as a discharge of the Agreement, the City may nevertheless maintain an action to recover damages arising out of such breach. This paragraph is not intended as a limitation of such other remedies as may be available to the City under law or equity.

2.9.18. *Documentation*

- A. **DISSEMINATION AND RETENTION:** There will be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City. Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Agreement, then, and in that event, upon written demand, Contractor will relinquish to

the possession and control of the City its entire file related to this Agreement and only those portions of said file deemed by the City to be not privileged will be returned to Contractor pending the resolution of the existing or anticipated litigation.

- B. **FORMAT AND QUALITY:** All documents prepared by Contractor will be prepared in a format and at a quality approved by the City.
- C. **DOCUMENT REVIEW:** Contractor will review all documents provided by the City related to the performance of the Services and will promptly notify the City of any defects or deficiencies discovered in such review.
- D. **SUBMITTALS:** Contractor will provide timely and periodic submittals of all documents required of Contractor, including subcontracts, if any, as such become available to the City for review.

2.9.19. *Public Records*

- A. Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law.
- B. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in their proposal. Within ten days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure.
- C. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.

2.9.20. *Background Screening – Standard Risk*

- A. **Determined Risk Level:** The current risk level and background screening required is STANDARD RISK LEVEL

- B. Standard Risk Level:** A standard risk background screening will be performed when the Contract Worker's work assignment will:
1. require a badge or key for access to City facilities; or
 2. allow any access to sensitive, confidential records, personal identifying information or restricted City information; or
 3. allow unescorted access to City facilities during normal and non-business hours.
- C. Requirements:** The background screening for this standard risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the state of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire.
- D. Contractor Certification; City Approval of Background Screening:** Unless otherwise provided for in the Scope, Contractor will be responsible for:
1. determining whether Contract Worker(s) are disqualified from performing work for the City for standard risk level background checks; and,
 2. for reviewing the results of the background check every five years; and,
 3. to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
 4. Submitting the list of qualified Contract Workers to the contracting department.
 5. For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
 6. By executing this agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current. Also, by executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all background screening requirements for the standard risk background screening, and verified legal worker status, as required.

2.9.21. Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the Effective Date, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial

accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Agreement; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Agreement; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Agreement. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Agreement, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section (Confidentiality). Contractor's obligations pursuant to this Section (Confidentiality) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

2.9.22. *Data Protection*

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Agreement. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at:

<https://www.fpc.gov/resources/glossary/>.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term "process," "processing," or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

- A. When Contractor processes PII pursuant to the Agreement, Contractor shall, at no additional cost to the City:
 1. process PII only within the United States and only in accordance with the Agreement and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;
 2. implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; A.R.S. § 18-552 (Notification of Security System Breaches); A.R.S. § 44-7601 (Discard and Disposal of Personal Identifying Information Records); Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice; (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)
 3. not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and

- Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
4. as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
 5. take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;
 6. maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Agreement and applicable laws;
 7. allow the City or its authorized agents to conduct audit inspection during the term of the Agreement, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section;
- B. If the Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Agreement, Contractor shall notify the City at SOC@phoenix.gov without undue delay within 48 hours; and:
1. provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;
 2. take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;
 3. cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and
 4. not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section (Data Protection). Contractor's obligations pursuant to this Section (Data Protection) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

2.9.23. Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

- require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. 41-1750 (G) (4);
- act on newly acquired information whether or not such information should have been previously discovered;
- unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Agreement. Contractor will bear the costs of all inquiries requested by the City.

2.9.24. 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.

2.9.25. 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.

2.10. Defense and Indemnification

2.10.1. 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.

2.10.2. Investment Advisor – Financial Management Agreements

Financial Consultant (“Indemnitor”) agrees to faithfully discharge the duties set forth in this Agreement and 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, demands, actions, liabilities, damages, losses, or expenses (including but not limited to court costs, attorneys’ 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, from

the acts, omissions or negligent conduct of Indemnitor or any of its owners, officers, directors, members, manager, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or with respect to Indemnitor’s Scope of Work. This defense and indemnity obligation includes holding Indemnitee harmless for any claim or amount 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 claims, except where it is proven that those Losses are solely a result of Indemnitee’s own negligent or willful acts or omissions. It is agreed that Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to any 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.

2.11. Insurance Requirements

2.11.1. *Financial Consultant's Insurance*

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

2.11.2. *Scope and Limits of Insurance*

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

2.11.3. *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 Financial Consultant related to this Contract.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Financial Consultant.
- The Financial Consultant's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

2.11.4. *Worker's Compensation and Employers' Liability*

Workers' Compensation Statutory

Employers' Liability:

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

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

2.11.5. *Professional Liability (Errors and Omissions Liability)*

Each Claim \$1,000,000

Annual Aggregate \$1,000,000

The policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those services as defined in the Scope of Services of this Contract.

In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Financial Consultant warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

2.11.6. *Financial Institution Bond or Security Dealers Blanket Bond*

(see Investment Advisor intro section to determine need for bond)

2.11.7. *Notice of Cancellation*

For each insurance policy required by the insurance provisions of this Contract, the Financial Consultant must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Phoenix Finance Department, Procurement Division, 251 W Washington Street, Phoenix, AZ 85003 OR procurement@phoenix.gov.

2.11.8. *Acceptability of Insurers*

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

2.11.9. *Verification of Coverage*

Financial Consultant 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 City of Phoenix Finance Department, Procurement Division, 251 W Washington Street, Phoenix, AZ 85003 OR procurement@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**

2.11.10. *Approval*

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

3. SUBMITTALS

3.1. Submittals

3.1.1. AFFIDAVIT

The undersigned Offeror hereby submits to the City of Phoenix (City) the enclosed proposal based upon all terms and conditions set forth in the City's Request for Proposals (RFP) and referenced materials. Offeror further specifically agrees hereby to provide services in the manner set forth in the proposal submitted by the Offeror.

The undersigned Offeror acknowledges and states, under penalty of perjury, as follows:

- A. The City is relying on Offeror's submitted information and the representation that Offeror has the capability to successfully undertake and complete the responsibilities and obligations submitted in its proposal and in the resulting contract.
- B. The City has the right to make any further inquiry it deems appropriate to substantiate or supplement information supplied by Offeror
- C. Offeror has read and fully understands all the provisions and conditions set forth in the RFP documents, upon which its proposal is based.
- D. The forms and information requested in the RFP are complete and made part of the proposal. The City is not responsible for any Offeror errors or omissions.
- E. This proposal may be withdrawn by requesting such withdrawal in writing at any time prior to the proposal deadline but may not be withdrawn after such date and time.
- F. The City reserves the right to reject any and all proposals and to accept the proposal that, in its judgment, will provide the best quality development to the City.
- G. This proposal is valid for a minimum of 180 days after the RFP proposal deadline.
- H. All costs incurred by Offeror in connection with this proposal shall be borne solely by Offeror. Under no circumstances shall the City be responsible for any costs associated with Offeror's proposal or the RFP process.
- I. Offeror has not in any manner, directly or indirectly, conspired with any person or party to unfairly compete or compromise the competitive nature of the RFP process.
- J. The contents of this proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal.
- K. To the best of the Offeror's knowledge, the information provided in its proposal is true and correct and neither the undersigned Offeror nor any partner, corporate officer or managing employee have ever been convicted of a felony or a crime involving moral turpitude.

3.1.2. Copies

Please submit one electronic 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).

3.1.3. 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 questionnaire.
- B. Pricing Proposal - A completed pricing proposal with all requested prices, quantities, and/or discounts completed.
- C. Submittal Forms - All submittal forms are completed and signed.
- D. Minimum Qualifications Questionnaire – Attached separately
- E. Addenda - Signed copies of all published addenda, if any.

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.

3.1.4. Additional Quantities

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

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