



CITY OF PHOENIX

AVIATION DEPARTMENT

INVITATION FOR BID

**AVN RCS 20-009 – SALE OF RECYCLABLE MATERIALS: OLD CORRUGATED
CARDBOARD & LOW DENSITY POLYETHYLENE
REVENUE CONTRACT SOLICITATION**

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TABLE OF CONTENTS

CITY OF PHOENIX

SECTION I – INSTRUCTIONS.....4

SECTION II..... 16

SECTION III – SPECIAL TERMS AND CONDITIONS29

SECTION IV – INSURANCE AND INDEMNIFICATION35

SECTION V – SCOPE OF WORK38

SECTION VI – SUBMITTALS41

SECTION VII – EXHIBITS.....49



SECTION I - INSTRUCTIONS

Please read before continuing to the procurement document. This list may not include every requirement; the purpose is to assist vendors, but vendors are expected to read and comply with the entire solicitation.

SOLICITATION RESPONSE CHECK LIST

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

- All forms have been completed and signed, including Solicitation Disclosure form.
- All Submittals are included.
- Reviewed and verified revenues offered.
- Checked revenue extensions and totals, if applicable.
- Included any required drawings or descriptive literature.
- If required, checked and included the amount of the response surety.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included the specified number of copies of the response as indicated in Submittal section.
- Included signed addenda, if any.
- Addressed the mailing envelope to the Procurement Officer on the solicitation front page, at the address listed.
- The mailing envelope clearly shows your company name and address, the solicitation number, solicitation title and the opening date.
- Mailed the response in time – City must receive responses no later than the date and time indicated in the Schedule of Events or addenda.



SECTION I - INSTRUCTIONS

SECTION I – INSTRUCTIONS

1. DESCRIPTION – STATEMENT OF NEED:

- 1.1. The City of Phoenix invites sealed responses for the sale and receipt of revenue of three categories of recycled materials: (1) old corrugated cardboard (OCC), loose; (2) OCC, baled; and (3) low-density polyethylene (LDPE). Selected vendor(s) place of business must be within the City of Phoenix boundaries. The term of the agreement will be one year with four one-year extensions mutually agreed upon by both parties commencing 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.
- 1.2. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.3. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

2. CITY’S VENDOR SELF-REGISTRATION AND NOTIFICATION:

Vendors must be registered in the City’s ProcurePHX Self-Registration System at <https://www.phoenix.gov/financesite/Pages/EProc-help.aspx> to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any response from a Respondent who has not registered.

3. SCHEDULE OF EVENTS:

ACTIVITY (All times are local Phoenix time)	DATE
Pre-Response Conference	September 11, 2019 1:00pm, Phoenix time
Pre-Response Conference Location	Aviation Corporate Office Building 2485 E Buckeye Road Phoenix, AZ 85034



SECTION I - INSTRUCTIONS

Written Inquiries Due Date	September 12, 2019 2:00pm, Phoenix time
Response Due Date	September 23, 2019 3:00p.m. Phoenix time
Response Submittal Location	2485 E. Buckeye Road Phoenix, AZ 85034

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

4. PREPARATION OF RESPONSE:

- 4.1. All forms provided in Submittal Section must be completed and submitted with the response. The signed and completed Solicitation Disclosure form must be included or your response may be deemed non-responsive.
- 4.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the response must be initialed in original ink by the authorized person signing the response. No response will be altered, amended or withdrawn after the specified response due date and time. The City is not responsible for Respondent's errors or omissions.
- 4.3. All time periods stated as a number of days will be calendar days.
- 4.4. It is the responsibility of all Respondents 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 a response. Negligence in preparing a response confers no right of withdrawal after due date and time. Respondents are strongly encouraged to:
 - 4.4.1. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 4.4.2. Study and carefully correlate Respondent's knowledge and observations with the solicitation and other related data.



SECTION I - INSTRUCTIONS

- 4.4.3. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Respondent has discovered in or between the solicitation and other related documents.
- 4.4.4. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Responses submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Respondent 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.
- 4.4.5. Respondents are reminded that the specifications stated in the solicitation are the minimum level required and that responses submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Responses offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 4.4.6. Revenues will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit revenue and extended revenue, the unit revenue will prevail unless obviously in error.

5. OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:

Interested Respondents may download the complete solicitation and addenda from <https://www.phoenix.gov/solicitations>. Internet access is available at all public libraries. Any interested respondents 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 Aviation Department, Contracts & Services Division, 2485 E. Buckeye, Phoenix, AZ 85034. It is the Respondent's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their response.

6. EXCEPTIONS:

Respondents must not take any exceptions to any terms, conditions or material requirements of this solicitation. Responses submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's



SECTION I - INSTRUCTIONS

sole discretion. Respondents must conform to all the requirements specified in the solicitation. The City encourages Respondents to send inquiries to the procurement officer rather than including exceptions in their Response.

7. INQUIRIES:

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

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

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

8. ADDENDA:

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

9. BUSINESS IN ARIZONA:

The City will not enter contracts with Respondents (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 respondent asserts a statutory exception prior to entering a contract with the City.

10. LICENSES:

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

11. CERTIFICATION:

By signature in the response section of the Response and Acceptance page(s), Respondent certifies:



SECTION I - INSTRUCTIONS

- The submission of the response did not involve collusion or other anti-competitive practices.
- The Respondent must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Respondent 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 response.

12. SUBMISSION OF RESPONSE:

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

Responses must be submitted in a sealed envelope and the following information should be noted on the outside of the envelope:

- Respondent's Name
- Respondent's Address (as shown on the Certification Page)
- Solicitation Number
- Solicitation Title
- Response Opening Date

All responses must be completed in ink or typewritten. Include the number of copies that are required as indicated in the Submittal section.

13. WITHDRAWAL OF RESPONSE:

At any time prior to the solicitation due date and time, a Respondent (or designated representative) may withdraw the response by submitting a request in writing and signed by a duly authorized representative.

14. RESPONSE RESULTS:

Responses will be opened on the response due date, time and location indicated in the Schedule of Events, at which time the name of each Respondent, and the revenues may be read. Responses and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate



SECTION I - INSTRUCTIONS

interest in them or persons assisting the City in the evaluation. Responses 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 response tabulation on the City's website, <https://www.phoenix.gov/solicitations> within five calendar days of the response opening. The City will post the information on the preliminary tabulation as it was read during the response opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the responses, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Respondents.

15. MINIMUM REQUIREMENTS:

- 15.1.** Respondent must have been in operation a minimum of ten years. The Respondent's normal business activity during the past ten years will have been for the sale of the products in this solicitation. (This information must be provided in the Submittal section, Years in Business and Customer Reference Listing of this solicitation.)
- 15.2.** Upon notification of an award the Respondent will have 30 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

16. EVALUATION CRITERION:

The Contractor(s) with the highest payment per recyclable material category (OCC loose, OCC baled or LDPE) shall be awarded a contract for that category if the Vendor meets the minimum requirement(s) set forth in Paragraph 15 and references set forth in Section VI, Paragraph 5.

17. AWARD OF CONTRACT: Unless otherwise indicated, award(s) will be made to the most responsive, responsible Respondent(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.

17.1 Factors that may be considered by the City include:

- Technical capability of the Respondent to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,



SECTION I - INSTRUCTIONS

- Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
- Safety record; and,
- Vendor history of complaints and termination for convenience or cause.

17.2 A response to a solicitation is a response to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Responses do not become contracts until they are executed by the Deputy Finance Director 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.

18. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:

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

19. SOLICITATION TRANSPARENCY POLICY:

19.1. Commencing on the date and time a solicitation is published, potential or actual 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 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.

19.2. As long as the solicitation is not discussed, Respondents may continue to conduct business with the City and discuss business that is unrelated



SECTION I - INSTRUCTIONS

to the solicitation with the City staff. Respondents may not discuss the solicitation with any City employees or evaluation panel members.

- 19.3. Respondents 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.
- 19.4. With respect to the selection of the successful Respondents, 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 Respondents.
- 19.5. This policy is intended to create a level playing field for all Respondents, assure that contracts are awarded in public, and protect the integrity of the selection process. **RESPONDENTS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Respondent may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 19.6. "To discuss" means any contact by the Respondent, regardless of whether the City responds to the contact. Respondents that violate this policy will be disqualified until the resulting contract(s) are awarded, or all 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.

20. PROTEST PROCESS:



SECTION I - INSTRUCTIONS

- 20.1.** Respondents 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.
- 20.2.** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of a response, regardless of filing a protest.
- 20.3.** Respondent may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Respondent was notified of the adverse determination.
- 20.4.** Respondent may protest an award recommendation if the Respondent 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 a Respondent(s). Respondent 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.
- 20.5.** All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
 - 20.5.1.** Identification of the solicitation number;
 - 20.5.2.** The name, address and telephone number of the protester;
 - 20.5.3.** A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
 - 20.5.4.** The form of relief requested; and
 - 20.5.5.** The signature of the protester or its authorized representative.
- 20.6.** The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43) and any protests or



SECTION I - INSTRUCTIONS

appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

21. PUBLIC RECORD:

All Responses 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 a Respondent believes that a specific section of its Response response is confidential, the Respondent will isolate the pages marked confidential in a specific and clearly labeled section of its Response response. A Respondent may request specific information contained within its Response is treated by the Procurement Officer as confidential provided the Respondent 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 Respondent 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 Respondent in writing of any request to view any portion of its Response marked "confidential." The Respondent will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Respondent 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.

22. LATE RESPONSES:

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

23. RIGHT TO DISQUALIFY:

The City reserves the right to disqualify any Respondent 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 Respondent on the basis of any real or apparent conflict of interest that is disclosed by the Respondent 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 Respondent waives any right to object now or at any future time, before any agency or body including, but not limited to, the City



SECTION I - INSTRUCTIONS

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 Respondent.

24. CONTRACT AWARD:

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

25. EQUAL HIGH RESPONSE:

In the event that two bidders provide equal, high bids, the Contract award will be made to the Vendor with the closest hauling distance by street miles to the Aviation Facilities Building located at 2515 E. Buckeye Road, Phoenix, Arizona 85034. If a further tie breaker is required, it will be conducted by putting the names of the tied vendors in a cup for a blind drawing limited to those bidders with tied responses. If time permits, the respondents 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.

26. EVALUATION OF COMPETITIVE SEALED RESPONSES:

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 revenue request and the highest revenue will prevail.

27. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

- 27.1.** Responses 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.
- 27.2.** Responsiveness: Nonresponsive Responses 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 Responses (as the case may be) will render a Response nonresponsive.
- 27.3.** Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Response that includes unacceptable



SECTION I - INSTRUCTIONS

exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Respondent remove the conditions, exceptions, reservations or understandings. If the Respondent fails to do so in writing, the City may determine the Response to be nonresponsive.

- 27.4.** 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 Respondent be a responsible contractor. Responsibility includes the Respondent's integrity, skill, capacity, experience, and facilities for conducting the work to be performed.
- 27.5.** The Procurement Officer will review each Response to determine if the Respondent is responsible. The City's determination as to whether a Respondent is responsible will be based on all information furnished by the Respondent, interviews (if any), and information received from Respondent's references, including information about Respondent'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 Respondent agrees to permit by submitting its Response, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.
- 27.6.** The Respondent'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 Respondent.

28. TITLE VI SOLICITATION NOTICE:

The City of Phoenix owns and operates Phoenix Sky Harbor International Airport, Phoenix Goodyear Airport and Deer Valley Airport. The City of Phoenix Aviation Department, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.



SECTION II – STANDARD TERMS AND CONDITIONS

Section II

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 Response as non-responsive.
Should:	Indicates something that is recommended but not mandatory. If the Contractor fails to provide recommended information, the City may, at its sole option, ask the Contractor to provide the information or evaluate the response 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.
"Deputy Finance Director"	The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.



SECTION II – STANDARD TERMS AND CONDITIONS

“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).
“Response”	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.
“Respondent”	Any Vendor, Seller or Supplier submitting a competitive response in response to a solicitation from the City. Same as Bidder or Proposer.
“Solicitation”	Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed bids, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, bids or quotes from suppliers.
“Tare Weight”	Tare weight is the empty weight of a truck or container; gross weight is full weight, net weight is the difference
“Vendor or Seller”	A seller of goods or services.

2. CONTRACT INTERPRETATION:

- 2.1. 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.



SECTION II – STANDARD TERMS AND CONDITIONS

- 2.2. 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:
- 2.2.1.** Special terms and conditions
 - 2.2.2.** Standard terms and conditions
 - 2.2.3.** Amendments
 - 2.2.4.** Statement or scope of work
 - 2.2.5.** Specifications
 - 2.2.6.** Attachments
 - 2.2.7.** Exhibits
 - 2.2.8.** Instructions to Contractors
 - 2.2.9.** Other documents referenced or included in the Solicitation
- 2.3. 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.
- 2.4. 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.
- 2.5. 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.
- 2.6. PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and



SECTION II – STANDARD TERMS AND CONDITIONS

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.

3. **CONTRACT ADMINISTRATION AND OPERATION:**

3.1. RECORDS: All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

3.2. 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.

3.3. 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



SECTION II – STANDARD TERMS AND CONDITIONS

Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

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.

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



SECTION II – STANDARD TERMS AND CONDITIONS

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.

3.3.1. Documentation: Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

3.3.2. 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.

3.4. 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:

3.4.1. 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.

3.4.2. 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.

3.4.3. 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.

3.5. 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:

3.5.1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract

3.5.2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their



SECTION II – STANDARD TERMS AND CONDITIONS

subcontractors including dates, reasons, dispositions and resolutions.

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).

- 3.6. 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.

- 3.7. 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
- 3.8. 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.
- 3.9. 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.



SECTION II – STANDARD TERMS AND CONDITIONS

4. COSTS AND PAYMENTS:

- 4.1. GENERAL:** Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms, if applicable, are specified in the Response.
- 4.2. PAYMENT DEDUCTION OFFSET PROVISION:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.
- 4.3. LATE SUBMISSION OF CLAIM BY CONTRACTOR:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.
- 4.4. DISCOUNTS:** Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
- 4.5. NO ADVANCE PAYMENTS:** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.
- 4.6. FUND APPROPRIATION CONTINGENCY:** The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.



SECTION II – STANDARD TERMS AND CONDITIONS

5. CONTRACT CHANGES:

- 5.1. CONTRACT AMENDMENTS:** Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.
- 5.2. ASSIGNMENT - DELEGATION:** No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.
- 5.3. 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.

6. RISK OF LOSS AND LIABILITY:

- 6.1. 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.
- 6.2. 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



SECTION II – STANDARD TERMS AND CONDITIONS

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.

6.3. 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 project manager.

6.4. 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.

6.5. 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.

7. CITY'S CONTRACTUAL RIGHTS:

7.1. 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



SECTION II – STANDARD TERMS AND CONDITIONS

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.

- 7.2. NON-EXCLUSIVE REMEDIES:** The rights and remedies of the City under this Contract are non-exclusive.
- 7.3. 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.
- 7.4. DEFAULT:** In case of default by the Contractor, the City may, by written notice, cancel this contract and issue a substitute solicitation for the services covered in this contract. Any decrease in revenues or other damages to the City incurred by the City because of Contractor's default can be recovered by the City from the Contractor.
- 7.5. 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 revenue a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.
- 7.6. REVENUE JUSTIFICATION:** In the event only one response is received, the City may require that the Contractor submit a revenue proposal in sufficient detail for the City to perform a revenue analysis to determine if the Response revenue is fair and reasonable.
- 8. CONTRACT TERMINATION:**
- 8.1. 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,



SECTION II – STANDARD TERMS AND CONDITIONS

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.

8.2. CONDITIONS AND CAUSES FOR TERMINATION:

8.2.1 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 entitled only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

8.2.2 The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

8.3. 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.

9. 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 is on the person who is conducting business in Arizona and the City of



SECTION II – STANDARD TERMS AND CONDITIONS

Phoenix. The legal liability to remit the tax is on the person conducting business in Arizona. Any failure by the Contractor to collect applicable taxes from the City shall not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective Respondent to determine any applicable taxes. The City will look at the revenue 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 Response. You may also find information at [Phoenix Tax Division](#) or [State of AZ Department of Revenue](#). Once your Response is submitted, the Response 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 agrees to remit any overpayments back to the City for miscalculations on taxes included in a Response.

10. TAX INDEMNIFICATION:

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, 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.

11. TAX RESPONSIBILITY QUALIFICATION:

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of Arizona for any License or Transaction Privilege taxes, Use taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in Arizona statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the Arizona State Department of Revenue to release tax information relative to Arizona Transaction Privilege Taxes or Arizona Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of the contract.



SECTION III – SPECIAL TERMS AND CONDITIONS

SECTION III – SPECIAL TERMS AND CONDITIONS

1. REVENUE:

- 1.1. REVENUE ADJUSTMENTS:** All revenue payments submitted shall be firm and fixed for a period of 30 days from the Response opening date. Thereafter, payments will be adjusted as follows:

Payments for OCC, baled or loose, will be adjusted monthly based on the PPI Pulp & Paper Week Index (commonly known as the “Yellow Sheet”), published monthly and recognized by the recycling industry as an appropriate price/revenue indicator. Rates will always be adjusted based on the previous month’s revenue amount. The Contractor agrees to provide an updated Yellow Sheet no later than the 10th day of each month to the City. See Exhibit B for sample rate adjustments.

Payments for LDPE rebates will be adjusted monthly based on the Announced Recovered Materials Prices, Plastics - FILM – Grade A Los Angeles (Southwest Region USA) Rates will always be adjusted based on the previous month’s revenue amount. The Contractor agrees to provide the updated Plastics Exchange LDPE Film range no later than the 10th day of each month to the City. See Exhibit B for sample rate adjustments.

Contractor should provide the rate adjustments for any time between the 30-day response period mentioned above until the date this procurement is approved by City Council.

2. METHOD OF PAYMENT TO CITY:

The monthly payment must include the following:

- 2.1. Date of Delivery
- 2.2. Time of Delivery
- 2.3. Commodity
- 2.4. Tare Weight
- 2.5. Gross Weight
- 2.6. Net Weight
- 2.7. Adjustments and reason(s) for adjustment
- 2.8. Total
- 2.9. The City Clerk Contract Number



SECTION III – SPECIAL TERMS AND CONDITIONS

Payments shall be made payable in check form to the Aviation Department lockbox address:

Aviation Department
City of Phoenix
PO Box 29110
Phoenix, AZ 85038-9110

3. CONFIDENTIALITY AND DATA SECURITY:

3.1. All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Contractor in connection with this Agreement is confidential, proprietary information owned by the City, the Contractor shall not disclose data generated in the performance of the service to any third person.

3.2. Contractor agrees to abide by all current applicable legal and industry data security and privacy requirements and subject to Payment Card Industry Standards, if applicable. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

4. LICENSES AND PERMITS:

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

5. ADVERTISING:

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

6. EXCLUSIVE POSSESSION:

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

7. POST AWARD CONFERENCE:

A post award conference will be held by the City of Phoenix Aviation Department, Recycling Coordinator prior to commencement of any work on the project. The



SECTION III – SPECIAL TERMS AND CONDITIONS

purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.

8. SUSPENSIONS OF WORK:

Finance Procurement Division and the project manager reserve 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.

9. PERFORMANCE INTERFERENCE:

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

Department Contact: Todd Blair, Recycling Coordinator, Aviation Department Representative (ADR)

Phone: 602- 273-2014

Email- todd.blair@phoenix.gov

10. HOURS OF WORK:

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

11. TYPES OF WORK SUPERVISION:

The Contractor shall provide on-site supervision and appropriate training to assure competent performance of the work and the Contractor or authorized agent will make sufficient daily routine inspections to insure the work is performed as required by this contract. Contractor's job manager, supervisor and at least one employee on-site must be able to read chemical labels, job instructions and signs, as well as converse in English with management personnel.

**12. AVIATION SECURITY PROCEDURES:
CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND
SCREENING:**

12.1. Contract Worker Background Screening

Contractor agrees that all contract workers and subcontractors (Contract Workers) that Contractor furnishes to the City pursuant to this Contract shall be subject to background and security checks and screening (Background Screening) as set forth below. Contractor further agrees that the Background Screening required in this Section is necessary to preserve



SECTION III – SPECIAL TERMS AND CONDITIONS

and protect public health, safety, and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Contract. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of Contractor's services under this Contract or Contractor's failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Contractor and its Contract Workers shall take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this Contract.

12.2. Background Screening Requirements and Criteria

Contractor agrees that it will verify legal Arizona worker status as required by Arizona Revised Statutes (A.R.S.) § 41-4401. Contractor further agrees that it will conduct a background check for real identity and legal name on all Contract Workers prior to proposing the Contract Worker to the City.

12.3. Additional City Rights Regarding Security Inquiries

12.3.1. In addition to the foregoing, the City reserves the right, but not the obligation, to:

- Have a Contract Worker be required 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) or Phoenix City Code § 4-22 or both;
- 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 Contract Workers; and
- Object, at any time and for any reason, to a Contract Worker performing work, including supervision and oversight, under this Contract.

12.4. Contractor Certification

By executing this Contract, Contractor certifies and warrants that Contractor has read the Background Screening requirements and criteria in this Section, understands them, and that any Background Screening information furnished to the City is accurate and current. A Contract



SECTION III – SPECIAL TERMS AND CONDITIONS

Worker rejected for work under this Contract shall not be proposed to perform work under any other City contract or engagement without the City's prior written approval.

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

Contractor shall include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Contract, including supervision and oversight services.

12.6. Materiality of Background Screening Requirements; Indemnity

The Background Screening requirements of this Section are material to the City's entry into this Contract and any breach of this Section by Contractor shall be deemed a material breach of this Contract. In addition to the indemnity provisions set forth in this Contract, Contractor shall defend, indemnify, and hold harmless the City for any and all Claims (as defined in Section II, 6.3) arising out of this Background Screening section including the disqualification of a Contract Worker by Contractor or the City for failure to satisfy this Section.

12.7. Continuing Duty; Audit

Contractor's obligations and requirements that Contract Workers satisfy this Background Screening Section shall continue throughout the entire term of this Contract. Contractor shall notify the City immediately of any change to a Background Screening of a Contract Worker previously approved by the City, if applicable. Contractor shall maintain all records and documents related to all Background Screenings and the City reserves the right to audit Contractor's compliance with this.

12.8. 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



SECTION III – SPECIAL TERMS AND CONDITIONS

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:

- have an employee/prospective employee of the Contractor be required 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 any and all inquiries requested by the City.

13. DELIVERY TIME:

All deliveries shall be made by the Public Works Department between the hours of 6:00 a.m. and 4:00 p.m., local time, Monday through Saturday, excluding Thanksgiving, Christmas Day and New Year's Day.



SECTION IV – INSURANCE AND INDEMNIFICATION

1. INDEMNIFICATION CLAUSE:

Contractor (Indemnitor) must indemnify, defend, save and hold harmless the City of Phoenix and its officers, officials, agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (“Claims”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors in connection with this Contract. This indemnity includes any Claims arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Contractor must indemnify Indemnitee from and against any and all Claims, except those arising solely from Indemnitee’s own negligent or willful acts or omissions. Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Contractor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Contractor for the City. The obligations of Contractor under this provision survive the termination or expiration of this Contract.

2. INSURANCE REQUIREMENTS:

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

These insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City in no way warrants that the minimum limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

3. MINIMUM SCOPE AND LIMITS OF INSURANCE:

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.



3.1. Commercial General Liability – Occurrence Form

Policy must include bodily injury, property damage and broad form contractual liability coverage.

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 be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor.”

3.2. Worker’s Compensation and Employers’ Liability

Workers’ Compensation Employers’ Liability	Statutory
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

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

4. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies must include, or be endorsed to include, the following provisions:

- On insurance policies where the City of Phoenix is named as an additional insured, the City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
- The Contractor’s insurance coverage must be primary insurance and non-contributory with respect to all other available sources.

5. **NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City,



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be emailed to:

Exigis LLC
Certificates-cityofphoenix@riskworks.com

6. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
7. **VERIFICATION OF COVERAGE:** Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

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

All certificates required by this Contract must be sent directly to Exigis (City’s certificate of insurance monitor). The City Clerk contract number must be noted on the certificate of insurance. The City reserves the right to require complete, certified 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.**

8. **SUBCONTRACTORS:** Contractors’ certificate(s) must include all subcontractors as additional insureds under its policies **or** Contractor must furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors must be subject to the minimum requirements identified above.
9. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract must be made by the Law Department, whose decision is final. Such action will not require a formal Contract amendment, but may be made by administrative action.



SECTION V – SCOPE OF WORK

Background

The City of Phoenix Aviation Department (Department) owns and operates Phoenix Sky Harbor International Airport (PHX). PHX is one of the busiest commercial airports in the United States, serving approximately 45 million passengers per year. PHX has an extensive recycling program designed to exceed the City of Phoenix (City) goal of 40% waste diversion by year 2020. PHX recovered over 5,060 tons of recyclable material in FY 2018 and has collected 4,073 thus far in FY 2019.

Currently, the City’s Public Works Department, Solid Waste Division, transports two PHX types of recycled materials, Old Corrugated Cardboard (OCC) and Low-Density Polyethylene (LDPE) to one private vendor who has paid monthly rebate payments to the Department.

The historical haul data on OCC and LDPE is listed below:

OCC:

FY 2014-2015:	296 Tons
FY 2015-2016:	272 Tons
FY 2016-2017:	561 Tons
FY 2017-2018:	689 Tons

LDPE Film:

Began recovering LDPE Film isolated in March 2017 - averaged 1 Ton per month.

Scope

The City of Phoenix Aviation Department (Department) seeks a one-year contract for vendors to provide the Department payments for recycled materials (OCC, loose and baled, and LDPE). Proposers may bid on one, two or all three categories of recycled materials. The materials will be delivered at the selected Vendor’s place of business on an as-needed basis by the Department. The Department will utilize City of Phoenix Public Works’ trucks and drivers to deliver the recycled materials and will deliver only to facilities within the City of Phoenix boundaries. The recycled materials will be sold on an “as is” basis.

1. Contractor shall provide all labor and equipment to purchase and take possession of OCC and LDPE, on an as needed basis. Collection and processing of these materials shall be in accordance with all local, state, and/or federal guidelines regarding plastics recycling. The contractor will be responsible for collection of such materials and payment to the Department for a one (1)-year contract term.



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

2. Delivery of Recycling Materials: The City's Public Works, Solid Waste Division will deliver the following recycling materials to the Contractor's facility:
 - a. OCC: loose
 - b. OCC, baled
 - c. LDPE
3. Service Requirements:
 - a. Contractor's facility shall be ready to accept recycling materials delivery from the City Monday through Saturday from 6:00 am to 4:00 pm. excluding Thanksgiving, Christmas Day and New Year's Day.
 - b. Contractor scales shall be situated as to provide ease of access and egress to the City's vehicles.
 - c. Contractor's scale shall have a load capacity of a forty (40) yard roll off bin with tare weight of 33,300 lbs along with printable time stamped scale tickets.
 - d. Contractor shall process City's delivery with a maximum of 20-minute turn-around time. This maximum turnaround time will include wait time in line to the scale house and for the delivery and sale of listed recyclable material(s).
 - e. Contractor shall conduct on-the-spot assessments of the degree of contamination, if any, of loads delivered. The percent of contamination shall be reflected on the weight ticket.
 - f. Contractor shall produce photos of any downgrade or contamination via email to the ADR within 24 hours of discovery of such issues.
 - g. Weight scale tickets shall be issued for each load/delivery along with the following information:
 - Type of recycling material(s) received
 - Percentage or weight of contamination if any
 - Tare weight, gross weight and net weight
 - Revenue paid for each type of recyclable material delivered
 - Container or bin number



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

4. Reports:

- a. Contractor shall provide a monthly “Reconciliation Report” on the 5th day of each month for the preceding monthly activities.
- b. The monthly report shall be sent via email to the ADR or designee. Any errors or discrepancies shall be discussed and, if necessary, correction made prior to the monthly check being processed for payment. Standard Accounting Practices will apply.
- c. The “Reconciliation Report” shall include the following information:
 - Company Name (legal name of the Contractor)
 - Date & time stamped of delivery
 - Weight ticket number
 - Recycle Material Type
 - Gross, tare and net weight
 - Revenue paid per ton to Aviation
 - Contamination description and deduction (if any) as reported the same day
 - Time stamped photos demonstrating claim of contamination
 - Truck #
 - Bin #
 - PDF Copies of scale tickets signed with driver's signature
- d. Contractor shall provide a separate monthly report on the recyclable material's destination and use for promotional and/or education purposes



SECTION VI – SUBMITTALS

CITY OF PHOENIX

SECTION VI – SUBMITTALS

1. **COPIES:** Please submit one original, two copies, and one electronic copy (portable drive or CD) of the Submittal Section and all other required documentation. **Please submit only the Submittal Section, do not submit a copy of the entire solicitation document.** This response will remain in effect for a period of 180 calendar days from the bid opening date and is irrevocable unless it is in the City’s best interest to do so.

2. **RESPONSE SUBMITTAL FORMAT:**

The response should be:

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

Tab 1 Company Qualifications

Tab 2 References

Tab 3 Submittal Section

Tab 4 Any Additional Licensing Information

3. **REVENUE TABLE**

Item No.	Description	Unit Revenue
1	OCC Loose	\$ _____/ton
2	OCC Baled	\$ _____/ton

Respondent Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

3	LDPE Loose	\$/_____ /ton
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If Vendor does not wish to bid on an Item No, please mark “N/A”.
 The City will pay all applicable taxes. For purposes of determining cost the City will not take tax into consideration.

- 4. LICENSING REQUIREMENTS:** Contractor will comply with all statutes and rules of the State of Arizona necessary for conduct of its business operations. Vendor will fill out any necessary licenses below. If additional room is necessary, please attach on a separate piece of paper labeled “Additional License Information”.

Licensed Contractor’s Name _____

Class _____

License Number _____

Expiration Date _____

- 5. REFERENCES:** Contractor will furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations for which the Contractor is currently furnishing or has furnished, completed service within the last three years. References must also be for firms or government organizations with at least two continuous years of business with Vendor with volumes equivalent to the figures set forth in the Scope of Work.

Company Name #1 _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name #2 _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name #3 _____

Address _____

Reference _____

Telephone Number _____

Email address _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

OFFER

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

Arizona Sales Tax No. _____

Use Tax No. for Out-of State Suppliers _____

City of Phoenix Sales Tax No. _____

Arizona Corporation Commission File No. _____

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

Enter City's Registration System ID Number Located at City's eProcurement website (see SECTION I – INSTRUCTIONS - CITY'S REGISTRATION)	
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Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

Authorized Signature

Date

Verify Name and type of company
(LLC, Inc., Sole Proprietor)

Printed Name and Title
(Member, Manager, President)

Address _____

City, State and Zip Code _____

Telephone Number _____

Company's Fax Number _____

Company's Toll Free # _____

Email Address _____

Respondent Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the material(s) or service(s) listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc. and the Contractor’s Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No._____. The Contractor has been cautioned not to commence any billable work or provide any material or service under this contract until Contractor receives purchase order, or contract documentation.

CITY OF PHOENIX

A Municipal Corporation
Ed Zuercher, City Manager

_____ Awarded this _____ day of _____ 2019

Charlene V. Reynolds
Assistant Aviation Director

City Clerk

Approved as to form this 19th day of January 2017. This document has been approved as to form by the City Attorney and is on file with the City Clerk. It need not be submitted to the City Attorney for approval unless the form document is altered.



SECTION VI – SUBMITTALS

CITY OF PHOENIX

SOLICITATION TRANSPARENCY FORM - This form must be signed and submitted to the City and all questions must be answered or indicate N/A, or your Response may be considered non-responsive.

1. Name of person submitting this disclosure form.

First MI Last Suffix

2. Contract Information

Solicitation # or Name:

3. Name of individual(s) or entity(ies) seeking a contract with the City (i.e. parties to the Contract)

4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.

5. List any individuals or entities that will be subcontractors on this contract or indicate N/A.

- Subcontractors may be retained, but not known as of the time of this submission.
- List of subcontracts, including the name of the owner(s) and business name:

6. List any attorney, lobbyist, or consultant retained by any individuals listed in Questions 3, 4, or 5 to assist in the proposal or seeking the resulting contract. If none, indicate N/A.

7. Disclosure of conflict of interest:



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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

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

- I am not aware of any conflict(s) of interest under City Code Section 43-34.
- I am aware of the following potential or actual conflict(s) of interest:

8. Notice Regarding Prohibited Interest in Contracts

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

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

Are you aware of any fact(s) with regard to this contract that would raise a “conflict of interest” issue under A.R.S. Sections 38-501 through 38-511. (See Arizona Revised Statutes regarding conflict of interest at www.azleg.gov).

- I am not aware of any conflict(s) of interest under Arizona Revised Statutes Sections 38-501 through 38-511.
- I am aware of the following conflict(s) of interest:

9. Acknowledgements

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

- I understand that a person or entity who seeks or applies for a city contract, or any



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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

A

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

10. Fraud Prevention and Reporting Policy

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

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

OATH

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

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

PRINT NAME

TITLE

SIGNATURE

DATE

COMPANY (CORPORATION, LLC, ETC.) NAME and DBA



SECTION VII – EXHIBITS

EXHIBIT A
SUPPLEMENTAL TERMS AND CONDITIONS
TO ALL AIRPORT AGREEMENTS

1. Definitions

- 1.1. "Airport" means Phoenix Sky Harbor International Airport, Phoenix Deer Valley Airport, and/or Phoenix Goodyear Airport, according to the context of the contract.
- 1.2. "Contract" means all City of Phoenix Aviation Department contracts, subcontracts, agreements, leases, subleases, licenses, permits, concessions, and other documents, however denominated, that grant or convey a right or privilege on an Airport and to which this Exhibit is attached.
- 1.3. "Contractor" means all lessees, sublessees, licensees, permittees, consultants, concessionaires and other persons, firms, or corporations exercising a right or privilege on an Airport pursuant to a Contract and includes Contractor's heirs, personal representatives, successors, and assigns.
- 1.4. "Premises" means the area of an Airport occupied or used by Contractor pursuant to a Contract.

2. Federal Aviation Administration (FAA) Grant Assurances

2.1. Title VI of the Civil Rights Act of 1964 – Compliance with Nondiscrimination Requirements – 49 U.S.C. § 47123 and FAA Order 1400.11

During the performance of this Contract, Contractor agrees as follows:

- A. **Compliance with Regulations.** Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as provided in Section 7 below), as it may be amended from time to time, which is incorporated herein by reference and made a part of this Contract.
- B. **Nondiscrimination.** With regard to the work performed by it under this Contract, Contractor will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate, directly or indirectly, in the discrimination prohibited by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, including employment practices when this Contract covers



SECTION VII – EXHIBITS

CITY OF PHOENIX

any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.

- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of Contractor's obligations under this Contract and the Title VI List of Pertinent Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- D. Information and Reports.** The Contractor will provide all information and reports required by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Phoenix or the FAA to be pertinent to ascertain compliance with the Title VI List of Pertinent Nondiscrimination Acts and Authorities and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor will so certify to the City of Phoenix or the FAA, as appropriate, and will set forth what efforts Contractor has made to obtain the information.
- E. Sanctions for Noncompliance.** In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City of Phoenix will impose such Contract sanctions as it or the FAA may determine to be appropriate, including:
- (i) Withholding payments to Contractor under this Contract until Contractor complies, and/or
 - (ii) Cancelling, terminating, or suspending this Contract, in whole or in part.
- F. Covenant Running with the Land.** Contractor for itself and its heirs, personal representatives, successors, and assigns, as a part of the consideration for this Contract, hereby covenants and agrees that, in the event facilities are constructed, maintained, or otherwise operated on the property described in this Contract for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Contractor will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and



SECTION VII – EXHIBITS

CITY OF PHOENIX

Authorities (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities. In the event of a breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to terminate this Contract and to enter, re-enter and repossess the property and facilities thereon and hold the same as if this Contract had never been made or issued.

- G. Incorporation of Provisions.** Contractor will include the provisions of paragraphs A through F in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, the Regulations, and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the City of Phoenix or the FAA may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that if Contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, Contractor may request the City of Phoenix to enter into any litigation to protect the interests of the City of Phoenix. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

2.2. **2.2 General Civil Rights Provisions – 49 U.S.C. § 47123**

- A. Sponsor Contracts.** Contractor agrees to comply with pertinent statutes, executive orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision binds Contractor and sub tier contractors from the bid solicitation period through the completion of this Contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.
- B. Sponsor Lease Agreements and Transfer Agreements.** Contractor agrees to comply with pertinent statutes, executive orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance, including Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. If Contractor transfers its obligations to another, then the transferee is obligated in the same manner as Contractor. This provision obligates Contractor or its transferee for the period during which the property is owned, used,



SECTION VII – EXHIBITS

CITY OF PHOENIX

or possessed by Contractor and the City of Phoenix remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2.3. **Economic Nondiscrimination – 49 U.S.C. § 47107**

In any Contract under which a right or privilege on the Airport is granted to a Contractor to conduct or to engage in any aeronautical activity for furnishing services to the public, Contractor shall:

- A. Furnish its services on a reasonable, and not unjustly discriminatory basis to all users of the Airport, and
- B. Charge reasonable, and not unjustly discriminatory prices for each unit or services, provided that Contractor may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Non-compliance with this requirement shall be a material breach of this Contract for which the City of Phoenix shall have the right to terminate this Contract and any estate created herewith without liability therefor or, at the election of the City of Phoenix or the United States shall have the right to judicially enforce said requirement.

2.4. **Disadvantaged Business Enterprise Requirements – 49 C.F.R. Part 26**

- A. **Contract Assurance (§ 26.13).** To the extent that this Contract is covered by 49 C.F.R. Part 26, Contractor agrees that this Contract is subject to the requirements of the U.S. Department of Transportation regulations at 49 C.F.R. Part 26. Contractor or its subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the City of Phoenix deems appropriate, which may include (i) withholding monthly progress payments, (ii) assessing sanctions, (iii) liquidated damages, and/or (iv) disqualifying Contractor from future bidding as non-responsible. Contractor agrees to include the foregoing statement in any subsequent contract that it enters into and cause those businesses to similarly include the statement in further agreements.
- B. **Prompt Payment (§ 26.29).** Contractor agrees to pay each subcontractor under this Contract for satisfactory performance of its contract not later than seven (7) days from the receipt of each payment



Contractor receives from City of Phoenix. Contractor agrees further to return retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City of Phoenix. This clause applies to both DBE and non-DBE subcontractors.

2.5. Airport Concessions Disadvantaged Business Enterprise Requirements – 49 C.F.R. Part 23

Contract Assurance (§ 23.9). To the extent that this Contract is a concession agreement covered by 49 C.F.R. Part 23, Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 C.F.R. Part 23. Contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 C.F.R. Part 23 that it enters into and cause those businesses to similarly include the statements in further agreements.

2.6. Miscellaneous

- A.** Contractor agrees that it will undertake an affirmative action plan in conformance with 14 C.F.R. Part 152, Subpart E (Nondiscrimination in Airport Aid Program), to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment, contracting, or leasing activities covered in 14 C.F.R. Part 152, Subpart E. Contractor assures that no person will be excluded on such grounds from participating in or receiving the services or benefits of any program or activity covered by Subpart E. Contractor further agrees that it will require its covered suborganizations to provide assurances to Contractor that they similarly will undertake affirmative action programs and that they will require like assurances from their suborganizations as required by 14 C.F.R. Part 152, Subpart E.

- B.** City of Phoenix reserves the right to further develop, improve, repair, and alter the Airport and all roadways, parking areas, terminal facilities, landing areas, and taxiways, as it may reasonably see fit, free from any and all liability to Contractor for loss of business or damages of any nature whatsoever to Contractor occasioned during the making of such improvements, repairs, alterations, and additions.



SECTION VII – EXHIBITS

CITY OF PHOENIX

- C.** The City of Phoenix reserves the right, but is not obligated to Contractor, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard.
- D.** Contractor acknowledges that this Contract is subordinate to any existing or future agreement between the City of Phoenix and the United States concerning the development, operation, or maintenance of the Airport. If the FAA or its successors require modifications or changes in the Contract as a condition to obtaining funds for improvements at the Airport or as a requirement of any prior grants, Contractor hereby consents to any and all such modifications and changes as may be reasonably required and agrees that it will adopt any such modifications and changes as part of this Contract.
- E.** This Contract is subordinate to the reserved right of the City of Phoenix and its successors and assigns to occupy and use for the benefit of the public the airspace above the Premises for the right of flight for the passage of aircraft. This public right of flight includes the right to cause in the airspace any noise inherent in the operation of any aircraft through the airspace or in landing at, taking off from, or operating at an Airport.
- F.** Contractor agrees to comply with the notification and review requirements, as required by 14 C.F.R. Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace), if future construction of a structure is planned for the Premises or a planned modification of a structure on the Premises. Contractor shall submit the required FAA Form 7460-1 (Notice of Proposed Construction or Alteration) and provide documentation showing compliance with the federal requirements. After the FAA has completed the aeronautical study, Contractor shall provide to the City of Phoenix the FAA determination letter on proposed construction and any impact to air navigation. Contractor covenants for itself and its successors and assigns that it will not erect or permit the erection of any structure or permit the growth of any tree on the Premises above the mean sea level elevation for (1) Phoenix Sky Harbor International Airport, 1,134 feet, (2) Phoenix Goodyear Airport, 968 feet, and (3) Phoenix Deer Valley Airport, 1,476 feet. As a remedy for the breach of the covenant, the City of Phoenix reserves the right to enter the Premises and remove the offending structure or cut the offending tree at Contractor's expense.
- G.** Contractor, by accepting this Contract, covenants for itself and its successors and assigns, that no use will be made of the Premises that might in any manner interfere with the landing and taking off of aircraft



SECTION VII – EXHIBITS

CITY OF PHOENIX

from the Airport or otherwise constitute a hazard to air navigation. As a remedy for the breach of the covenant, the City of Phoenix reserves the right to enter the Premises and abate the interference at Contractor's expense.

- H. Contractor agrees that nothing in this Contract may be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e) (No exclusive rights at certain facilities).
- I. This Contract is subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation, and taking-over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.
- J. If this Contract involves construction, Contractor shall carry out the project in accordance with FAA airport design, construction, and equipment standards and specifications current on the date of project approval.
- K. Contractor is encouraged to use fuel and energy conservation practices.

3. **Immigration Reform and Control Act of 1986 (IRCA)**

Contractor agrees that IRCA (Public Law 99-603) applies to it. Contractor shall comply with the provisions of IRCA as it applies to its activities under this Contract and to permit the City of Phoenix to inspect its personnel records to verify its compliance.

4. **Conflict of Interest**

Contractor agrees that the City of Phoenix may cancel this Contract pursuant to Arizona Revised Statutes (A.R.S.) § 38-511 (Cancellation of political subdivision and state contracts).

5. **Legal Worker Requirements**

The City is prohibited by A.R.S. § 41-4401 from awarding an agreement to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A) (Verification of employment eligibility; e-verify program). Therefore, Contractor agrees that:

- A. 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 § 23-214(A).



SECTION VII – EXHIBITS

CITY OF PHOENIX

- B. A breach of warranty under paragraph A above shall be deemed a material breach of this Contract and is subject to penalties up to and including termination of the Agreement.
- C. The City of Phoenix retains the legal right to inspect the papers of Contractor or its subcontractor employees who work on this Contract to ensure that Contractor or its subcontractors are complying with the warranty under paragraph A above.

6. City of Phoenix Equal Employment Opportunity Requirement

- 6.1 If Contractor is by this Contract a supplier to or lessee of the City, then the requirements of the Phoenix City Code, Chapter 18, Article V applies, including the agreement that:

“Any supplier/lessee in performing under this contract 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 supplier and/or lessee shall 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 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.”

Supplier/lessee further agrees that this clause will be incorporated in all subcontracts, job-consultant agreements or subleases of this agreement entered into by supplier/lessee.

If the supplier/lessee employs more than 35 employees, the following language shall be included as the last paragraph to the clause above:

“The supplier/lessee 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,



SECTION VII – EXHIBITS

CITY OF PHOENIX

and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.”

6.2 Documentation. Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

6.3 Monitoring. The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this Section 3 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.

7. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Contract, Contractor agrees to comply with all federal, state, and local nondiscrimination laws, rules, and regulation, including the following:

- A.** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) (prohibits discrimination on the basis of race, color, or national origin).
- B.** 49 C.F.R. Part 21 (Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964).
- C.** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §§ 4601, *et seq.*) (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal aid programs and projects).
- D.** Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq.*), as amended (prohibits discrimination on the basis of disability), and 49 C.F.R. Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance).
- E.** The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101, *et seq.*) (prohibits discrimination on the basis of age). Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex).
- F.** The Civil Rights Restoration Act of 1987 (Public Law 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973 by expanding the definition of the terms “programs



SECTION VII – EXHIBITS

CITY OF PHOENIX

- or activities” to include all of the programs or activities of the federal-aid recipients, sub-recipients, and contractors, whether the programs or activities are federally funded or not).
- G.** Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*), which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities as implemented by U.S. Department of Transportation regulations at 49 C.F.R. Part 37 (Transportation Services for Individual with Disabilities) and Part 38 (Americans with Disabilities Act Accessibility Specification for Transportation Vehicles).
 - H.** Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
 - I.** Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) and resulting agency guidance and national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).
 - J.** Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681, *et seq.*), as amended, which prohibits you from discriminating because of sex in education programs or activities.

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EXHIBIT B

**REVENUE ADJUSTMENT SHEET
(Example)**

**Old Corrugated Cardboard (OCC)- Loose or Baled
Increase Example**

Original Bid Price	\$100/ton (2000 lbs. = 1 ton)
Yellow Sheet, Southwest Region high end of range (March 2019)	65
Yellow Sheet, Southwest Region high end of range (April 2019)	70
Adjustment Percentage (70/65)	1.076
New bid price (1.076 * 100)	\$107.60

Decrease Example

Adjusted Bid Price	\$107.60/ton (2000 lbs. = 1 ton)
Yellow Sheet, Southwest Region high end of range (April 2019)	65
Yellow Sheet, Southwest Region high end of range (May 2019)	60
Adjustment Percentage (60/65)	.923
New bid price (.923 * 107.60)	\$99.31

Adjustments will always be adjusted based on the previous month's revenue amount



SECTION VII – EXHIBITS

CITY OF PHOENIX

**Low-Density Polyethylene (LDPE)
Increase Example**

Original Bid Price	\$280/ton (2000 lbs. = 1 ton)
Announced Recovered Materials Prices Plastics - FILM – Grade A Los Angeles (Southwest Region USA) Average Price (middle column) (March 2019)	13.0
Announced Recovered Materials Prices Plastics - FILM – Grade A Los Angeles (Southwest Region USA) Average Price (middle column) (April 2019)	15.0
Adjustment Percentage (15.0/13.0)	1.153
New bid price (1.153 * 280)	\$323.07/ton

Decrease Example

Adjusted Bid Price	\$323.07/ton (2000 lbs. = 1 ton)
Announced Recovered Materials Prices Plastics - FILM – Grade A Los Angeles (Southwest Region USA) Average Price (middle column) (April 2019)	15.0
Announced Recovered Materials Prices Plastics - FILM – Grade A Los Angeles (Southwest Region USA) Average Price (middle column) (May 2019)	14.0
Adjustment Percentage (14.0/15.0)	.933
New bid price (323.07 * .933)	\$301.53

Adjustments will always be adjusted based on the previous month's revenue amount