



**CITY OF PHOENIX**

**INFORMATION TECHNOLOGY SERVICES**

**REQUEST FOR PROPOSAL  
ITS RFP 21-001**

**PUBLIC RECORDS REQUEST (PRR) SYSTEM (CITYWIDE) –  
REQUIREMENTS CONTRACT**

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Phoenix, AZ 85003  
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**[its.financial.procurement@phoenix.gov](mailto:its.financial.procurement@phoenix.gov)**

**Date posted on website (issue Date): July 6, 2020**



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Information Technology  
Services  
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## SECTION I - INSTRUCTIONS

Please read before continuing to the offer document. This list may not include every requirement; the purpose is to assist Offerors, but Offerors 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 prices offered.
- Checked price extensions and totals.
- Included any required drawings or descriptive literature.
- If required, checked and included the amount of the offer surety.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included signed addenda, if any.
- Emailed entire proposal to [its.financial.procurement@phoenix.gov](mailto:its.financial.procurement@phoenix.gov)
- Emailed the response in time – City must receive offers no later than the date and time indicated in the Schedule of Events or addenda (local Phoenix time).



## SECTION I - INSTRUCTIONS

### SECTION I – INSTRUCTIONS

#### 1. DESCRIPTION:

- 1.1. The City of Phoenix invites sealed offers for a new public records request processing solution to be used by all departments except Police, Fire and Municipal Court for a five-year period commencing on or about November 1, 2020, in accordance with the specification and provisions contained herein.
- 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 of any of the following: reaching the end of the term and any extensions exercised, or termination pursuant to the provisions of this Agreement.

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

#### 3. SCHEDULE OF EVENTS:

ACTIVITY	DATE AND TIME (All times are local Phoenix time)
Written Inquiries Due Date	<b>July 13, 2020 at 12:00 PM</b>
Offer Due Date	<b>July 30, 2020 at 2:00 PM</b>
Offer Submittal	<b>Electronic Submission</b> (Refer to Section I, Item 12 – Submission of Offer)

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

#### 4. PREPARATION OF OFFER:

- 4.1. All forms provided in the Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.
- 4.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror’s errors or omissions.



## SECTION I - INSTRUCTIONS

- 4.3.** All time periods stated as a number of days will be calendar days.
- 4.4.** It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:
- 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 Offeror's knowledge and observations with the solicitation and other related data.
  - 4.4.3. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror 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. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
  - 4.4.5. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
  - 4.4.6. Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products offered. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
  - 4.4.7. Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.



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5. **OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:** Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Internet access is available at all public libraries. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix Information Technology Services, 251 West Washington Street, 6<sup>th</sup> Floor, Phoenix, AZ 85003. It is the Offeror's responsibility to check the website throughout the entire solicitation period up to City Council award, read the entire solicitation, and verify all required information is submitted with its offer.
  
6. **EXCEPTIONS:** Offeror must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Offerors must conform to all the requirements specified in the solicitation. The City encourages Offerors to send inquiries to the procurement officer rather than including exceptions in their Offer as explained in Inquiries.
  
7. **INQUIRIES:** All questions that arise relating to this solicitation should be directed via email to the Procurement Officer and must be received by the due date indicated in the Schedule of Events. The City will not consider questions received after the deadline.  
  
No informal contact initiated by Offerors on the proposed service will be allowed with members of City's staff from date of distribution of this solicitation until after City Council awards the contract. All questions concerning or issues related to this solicitation must be presented **in writing**.  
  
The Procurement Officer will answer written inquiries in an addendum and publish any addendums on the Procurement Website.
  
8. **ADDENDA:** The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal, or the Offer may be considered non-responsive.
  
9. **BUSINESS IN ARIZONA:** The City will not enter contracts with Offerors (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of Arizona by the Arizona Corporation Commission, unless the offeror asserts a statutory exception prior to entering a contract with the City.



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10. **LICENSES:** If required by law for the operation of the business or work related to this Offer, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.
11. **CERTIFICATION:** By signature in the offer section of the Offer and Acceptance page(s), Offeror certifies:
  - 11.1. The submission of the offer did not involve collusion or other anti-competitive practices.
  - 11.2. The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
  - 11.3. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
12. **SUBMISSION OF OFFER:** Offers must be in possession of the Department on or prior to the exact time and date indicated in the Schedule of Events. Late offers will not be considered. The prevailing clock will be the City Department's clock.

Offers must be submitted via email to [its.financial.procurement@phoenix.gov](mailto:its.financial.procurement@phoenix.gov)
13. **WITHDRAWAL OF OFFER:** At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative.
14. **OFFER RESULTS:** Offers will be opened on the offer due date, time and location indicated in the Schedule of Events, at which time the name of each Offeror will be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post the Offeror's name on the preliminary offer tabulation on the City's website, <https://solicitations.phoenix.gov/Awards> within five calendar days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.



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### 15. PRE-AWARD QUALIFICATIONS:

**15.1.** Offeror must have been in operation a minimum of one (1) year. The Offeror's normal business activity during the past year will have been for providing the goods or services in this solicitation. (This information must be provided in The Submittal section, Years in Business and Customer Reference Listing of this solicitation.)

### 16. AWARD OF CONTRACT:

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

**16.2** Factors that may be considered by the City include:

- Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,
- Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
- Vendor history of complaints and termination for convenience or cause, litigation or lawsuits.

**16.3.** Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

**16.4.** A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the 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.

**17. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:** The City reserves the right to disqualify any Offeror based on any real or apparent conflict of interest that is disclosed by the offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before any





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agency or body, including but not limited to, the City Council of the City of Phoenix or any court.

### 18. SOLICITATION TRANSPARENCY POLICY:

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

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

**18.3.** Offerors may discuss their offer 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.

**18.4.** With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process.

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

**18.6.** "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy shall be



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disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

### **19. PROTEST PROCESS**

- 19.1.** Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an addendum 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.
- 19.2.** Therefore, unless otherwise notified by a formal addendum, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 19.3.** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.
- 19.4.** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City's website to award the contract(s) to an Offeror(s). Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City's full and final discretion.
- 19.5.** All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
  - 19.5.1. Identification of the solicitation number;
  - 19.5.2. The name, address and telephone number of the protester;
  - 19.5.3. A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
  - 19.5.4. The form of relief requested; and
  - 19.5.5. The signature of the protester or its authorized representative.



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- 19.6.** 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 appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.
- 20. PUBLIC RECORD:** All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked "confidential." The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.
- 21. LATE OFFERS:** Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being a late Offer.
- 22. RIGHT TO DISQUALIFY:** The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offeror submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any



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disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

- 23. 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.
- 24. EVALUATION OF COMPETITIVE SEALED OFFERS:** Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.
- 25. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:**
  - 25.1.** Offers will be reviewed for documentation of qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.
  - 25.2.** Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.
  - 25.3.** Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.
  - 25.4.** 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 Offeror be a responsible contractor. Responsibility includes the Offeror's integrity, skill, capacity, experience, financial ability, and facilities for conducting the work to be performed.
  - 25.5.** The Procurement Officer will review each Offer to determine if the Offeror is responsible and responsive. The City's determination as to whether an Offeror is responsible will be based on the information furnished by the Offeror, interviews (if any), and information received from Offeror's references, including information about Offeror's history, terminations for



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convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

- 25.6.** The Offeror's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.
- 26. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE:** During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings and which Offers are within the Competitive Range, when appropriate.
- 27. OFFERS NOT WITHIN THE COMPETITIVE RANGE:** The City may notify Offerors of Offers that the City determined are not in the Competitive Range.
- 28. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:**
- 28.1.** The City will notify each Offeror whose Offer is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Offeror. Each Offeror so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Offer. The Offerors in the competitive range may be required to provide a demonstration of their product.
- 28.2.** Demonstrations - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Phoenix. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).
- 28.3.** If an Offer in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the



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City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Offeror to remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so, the City may determine the Offer is nonresponsive, and the City may revoke its determination that the Offer is in the Competitive Range.

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

### **29. BEST AND FINAL OFFERS (BAFO):**

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

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

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

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



## SECTION II – STANDARD TERMS AND CONDITIONS

### SECTION II – STANDARD TERMS AND CONDITIONS

#### 1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

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

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

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

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

“A.R.S.” Arizona Revised Statute

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

“City” The City of Phoenix

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

“Contract” or “Agreement” The legal agreement executed between the City of Phoenix, AZ and the Offeror.

“Days” Means calendar days unless otherwise specified.

“Deputy Finance Director” or “Department 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.





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“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).
“Good Cause”	Substantial grounds or evidence based upon facts not in dispute, as determined by the Procurement Officer, that the failure by an aggrieved party, an Offeror, or a respondent to submit a timely Offer, response, protest, or appeal was beyond its control due to misinformation relayed in writing by a City employee.
“Offer”	Means a response from a supplier, Offeror or service provider to a solicitation request that, if awarded, binds the supplier, Offeror or service provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.
“Offeror”	Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
“Solicitation”	Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed Offers or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, bids, Offers or quotes from suppliers.
“Suppliers”	Firms, entities or individuals furnishing goods or services to the City.
“Vendor” or “Seller”	A seller of goods or services.





## SECTION II – STANDARD TERMS AND CONDITIONS

### 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.

**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:

- 2.1. Special terms and conditions
- 2.2. Standard terms and conditions
- 2.3. Amendments
- 2.4. Statement or scope of work
- 2.5. Specifications
- 2.6. Attachments
- 2.7. Submittals
- 2.8. Exhibits
- 2.9. Instructions to Offerors
- 2.10. Other documents referenced or included in the Invitation for Offer

**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



## SECTION II – STANDARD TERMS AND CONDITIONS

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 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 three years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City.

**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.



## SECTION II – STANDARD TERMS AND CONDITIONS

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

**3.3.1. For a Contractor with 35 employees or fewer:** Contractor in performing under this Agreement 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 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 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 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.

**3.3.2. For a Contractor with more than 35 employees:** Contractor in performing under this Agreement 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 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 will 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 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



## SECTION II – STANDARD TERMS AND CONDITIONS

Agreement entered into by supplier/lessee. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and will ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

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

3.3.4. Monitoring: The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

**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.



## SECTION II – STANDARD TERMS AND CONDITIONS

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 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 are specified in the Offer.
- 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.
- 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.
- 4.7. MAXIMUM PRICES:** The City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies, by signing this Offer that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the





## SECTION II – STANDARD TERMS AND CONDITIONS

goods or services covered by this Offer and occurring after award will apply to such undelivered balance. The Contractor will promptly notify the City of such price reductions.

### 5. **CONTRACT CHANGES:**

**5.1. CONTRACT AMENDMENTS:** Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation will be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements will be in writing and contract changes will 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. ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

**6.3. 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



## SECTION II – STANDARD TERMS AND CONDITIONS

beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

- 6.4. LOSS OF MATERIALS:** The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the City.
- 6.5. 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.

- 6.6. 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.





## SECTION II – STANDARD TERMS AND CONDITIONS

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 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. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- 7.4. **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.
- 7.5. **DEFAULT:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the Offer and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- 7.6. **COVENANT AGAINST CONTINGENT FEES:** Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.



## SECTION II – STANDARD TERMS AND CONDITIONS

- 7.7. COST JUSTIFICATION:** In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.
- 7.8. WORK PRODUCT, EQUIPMENT AND MATERIALS:** All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees that all materials prepared under this contract are "works for hire" within the meaning of the copyright laws of the United States and assigns to City all rights and interests Contractor may have in the materials it prepares under this contract, including any right to derivative use of the material.
- 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, 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 liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
- 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:



## SECTION II – STANDARD TERMS AND CONDITIONS

- 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 fails to give the City a positive indication that Contractor will or can 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 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 will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your bid. You may also find information at <https://www.phoenix.gov/finance/plt> or <https://www.azdor.gov/Business.aspx>. Once your bid is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City agrees to remit any overpayments back to the City for miscalculations on taxes included in a bid price.

**10. TAX INDEMNIFICATION:** Contractor will, 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 will, 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,



## SECTION II – STANDARD TERMS AND CONDITIONS

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 contract.



## SECTION III – SPECIAL TERMS AND CONDITIONS

### SECTION III – SPECIAL TERMS AND CONDITIONS

1. **TERM OF THE CONTRACT:** The term of this Contract will commence on or about November 1, 2020, and shall expire five (5) years thereafter.
2. **PRICE:** All prices offered will be firm and fixed for the term of the contract.
3. **METHOD OF ORDERING:** Contractor shall deliver items and/or services only upon receipt of a written purchase order. All Contractor invoices and packing/delivery tickets must include the City of Phoenix purchase order number.
4. **METHOD OF INVOICING:** Invoice must be emailed in .pdf format to [invoices@phoenix.gov](mailto:invoices@phoenix.gov) and must include the following:
  - City purchase order number or shopping cart number,
  - Items listed individually by the written description and part number.
  - Unit price, extended and totaled.
  - Quantity ordered, back ordered, and shipped.
  - Applicable tax
  - Invoice number and date.
  - Delivery address.
  - Payment terms.
  - FOB terms.
  - Remit to address
5. **METHOD OF PAYMENT:** Payment to be made from Contractor's invoice, and a copy of the signed delivery/service ticket submitted to cover items received and accepted during the billing period.
6. **PARTIAL PAYMENTS:** Partial payments are authorized on individual purchase orders. Payment will be made for actual goods and services received and accepted by the City.
7. **SUPPLIER PROFILE CHANGES:** It is the responsibility of the Contractor to promptly update their profile in procurePHX at [www.phoenix.gov/procure](http://www.phoenix.gov/procure). If Contractor's legal identify has changed, the Procurement Officer must be notified immediately. Failure to do so may result in non-payment of invoices and contract termination.
8. **ESTIMATED QUANTITIES OR DOLLAR AMOUNTS:** Quantities and dollar amounts listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this agreement, as determined by actual needs and availability or appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirement for the contract period.



## SECTION III – SPECIAL TERMS AND CONDITIONS

9. **AUTHORIZED CHANGES:** The City reserves the right at any time to make changes in any one or more of the following, as long as there is not a conflict with the Scope or Proposal: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be deemed waived unless asserted in writing within 30 days from the receipt of the change. Price increases or extensions of delivery time shall not be binding on the City unless evidenced in writing and approved by the Deputy Finance Director or Department Director prior to the institution of the change.
10. **SUSPENSIONS OF WORK:** The Procurement Officer and the project manager reserves the right to suspend work wholly or in part if deemed necessary for the best interest of the City. This suspension will be without compensation to the Contractor, other than to adjust the contract completion/delivery requirements.
11. **HOURS OF WORK:** All work under this contract shall be coordinated with the City's project manager. Any changes to the established schedule must have prior written approval by the City's project manager
12. **POST AWARD CONFERENCE:** A post-award conference will be held by the Procurement Officer or project manager prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.
13. **PERFORMANCE INTERFERENCE:** Contractor will 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: Kristen Merser  
Phone: (602) 262-7177  
Email: prr@phoenix.gov

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

A current listing of eligible entities may be found at [www.mesaaz.gov/business/purchasing/save](http://www.mesaaz.gov/business/purchasing/save). Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective entity. Orders placed by other agencies and payment thereof will be the sole responsibility of that entity. The City shall not be responsible for any disputes arising out of transactions made by other entities who utilize this solicitation.



## SECTION III – SPECIAL TERMS AND CONDITIONS

15. **ADVERTISING:** Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Agreement, the Technology Assets, or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Agreement shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.
16. **EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the City of Phoenix and will not be used by the Contractor or any other person except with prior written permission by the City.
17. **STRICT PERFORMANCE:** Either party's failure to insist on strict performance of any term or condition of the Contract will not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it; except where enforcement of this provision would be in conflict with the scope or proposal.
18. **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.
19. **DEMONSTRATION:** The City may, in its discretion, require a demonstration of the products or services offered as part of the evaluation process. The demonstration shall be provided by the Contractor at no cost to the City for the period deemed sufficient to properly evaluate the product or service. The exact time, conditions, and terms of the evaluation shall be established at the time a demonstration is requested.
20. **COMMUNICATION IN ENGLISH:** It is mandatory that the Contractor's lead person assigned to any City facility can speak, read, and write in English to effectively communicate with City staff.
21. **TRANSITION OF CONTRACT:** Contractor will, without limitation, provide important information to a successor Contractor and the City to ensure continuity of service at the required level of proficiency and agrees to provide to the City all files, supplies, data, records, and any other properties or materials of the City, which the City owns or has rights to pursuant to this contract and which are in the possession of Contractor. The provisions of this section will survive the expiration or termination of this contract.





## SECTION III – SPECIAL TERMS AND CONDITIONS

- 22. TYPES OF WORK SUPERVISION:** The Contractor will 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.
- 23. BACKGROUND SCREENING:** Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.
- 23.1 Background Screening Risk Level:** The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges.
- 23.2 Terms of This Section Applicable to all Contractor's Contracts and Subcontracts:** Contractor will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.
- 23.3 Materiality of Background Screening Requirements; Indemnity:** The background screening requirements are material to City's entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.
- 23.4 Continuing Duty; Audit:** Contractor's obligations and requirements will continue throughout the entire term of this Agreement. Contractor will





## SECTION III – SPECIAL TERMS AND CONDITIONS

maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's records.

### 24. BACKGROUND SCREENING – MAXIMUM RISK:

**24.1.** The current risk level and background screening required is **MAXIMUM RISK**.

**24.2. Maximum Risk Level:** A maximum risk background screening will be performed every five years when the Contract Worker's work assignment will:

- work directly with vulnerable adults or children, (under age 18); or
- any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or
- unescorted access to:
  - City data centers, money rooms, high-value equipment rooms; or
  - Unescorted access to private residences; or
  - access to critical infrastructure sites/facilities; or
  - direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.

**24.3. Requirements:** The background screening for maximum risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the State of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire. In addition, Maximum screening levels may require additional checks as included herein, depending on the scope of work, and may be amended if the scope of work changes.

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

- determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,
- submitting pass/fail results to the City for approval; and,
- reviewing the results of the background check every three to five years, dependent on scope; and,
- to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- Submitting the list of qualified Contract Workers to the contracting department; and,



## SECTION III – SPECIAL TERMS AND CONDITIONS

- If, upon review of the background information, the City will advise the Contractor if it believes a Contract Worker should be disqualified. The Contractor will evaluate the Contract Worker and if the Contractor believes that there are extenuating circumstances that suggest that the person should not be disqualified, the Contractor will discuss those circumstances with the contracting department. The contracting department decision on disqualification of a Contract Worker is final.
- For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
- By executing this agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current.
- The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
- The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Contractor, or any contracted agency that assists with review, after the City’s completed review.
- By executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all such background screening requirements for the maximum risk background screening, and verified legal worker status, as required.
- Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the City’s written acceptance of Contract Worker’s maximum risk background screening. The City may, in its sole discretion, accept or reject any or all the Contract Workers proposed by Contractor for performing work under this Agreement. A Contract Worker rejected for work at a maximum risk level under this agreement will not be proposed to perform work under other city contracts or engagements without city’s prior written approval.

**25. CONFIDENTIALITY AND DATA SECURITY:** 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. Except as specifically provided in this Agreement, the Contractor shall not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager or his/her designee.



## SECTION III – SPECIAL TERMS AND CONDITIONS

Personal identifying information, financial account information, protected health information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Contractor must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, handheld devices, networking devices, removable storage devices, or other electronic media, as well as data in transit, such as during email or file transfer.

When personal identifying information, financial account information, protected health information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. Contractor must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

This includes implementing and monitoring compliance with policies and procedures that require the redaction, destruction, erasure, or other disposal of paper documents and electronic media containing personal identifying information, financial account information, protected health information, or restricted City information so that these types of information cannot practicably be read or reconstructed. Contractor will provide the City with its information security policies and procedures regarding the redaction, destruction, erasure, or other disposal of documents and information.

In the event that data collected or obtained by the Contractor in connection with this Agreement is suspected to have been compromised, Contractor shall notify the contracting City department immediately. Contractor agrees to reimburse the City for any costs incurred by the City to investigate and respond to potential breaches of this data, including, where applicable, the cost of notifying individuals who may be impacted by the breach, attorneys' fees, and for any monetary damages or penalties the City is assessed. In case of a breach or critical breach of the City's information, it will be the City, not the Contractor that will inform any and all individuals affected by any such breach. Only upon prior written consent of the City, or at the specific direction of the City, will the Contractor notify individuals affected by a breach or critical breach of the City's information.

Contractor agrees that the City may assess or test the security of any applications, web services, or computerized systems created or provided by the Contractor that process, store, or transmit City information. If the City finds vulnerabilities that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS) in these applications, web services, or computerized systems, the Contractor agrees to remediate the vulnerability at no cost to the City and within an agreed-upon timeframe not to exceed 90 days. To clarify, the



## SECTION III – SPECIAL TERMS AND CONDITIONS

Contractor must remediate found vulnerabilities in computerized systems they provide; Contractor is **not** liable for remediating any vulnerability found in the City's network or computing infrastructure used to support the applications, web services, or systems created or provided by the Contractor.

Contractor agrees to abide by all current applicable legal and industry data security and privacy requirements. These include, but are not limited to, Arizona Revised Statutes §44-7501 — Notification of breach of security system; Arizona Revised Statutes §44-7601 — Discarding and disposing of records containing personal identifying information; Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules; Health Information Technology for Economic and Clinical Health (HITECH) Act, and Payment Card Industry Data Security Standards.

Contractor agrees to demonstrate that they have adequate controls and safeguards when they host or process personal identifying information, financial account information, protected health information, or restricted City information. This may be accomplished through a third-party audit utilizing a widely recognized auditing standard, such as Statement on Standards for Attestation Engagements (SSAE) No. 16, or through earning industry certification, such as ISO/IEC 27001.

By signing and entering this Agreement the Contractor specifically acknowledges that it is responsible for the security of cardholder data that Contractor possesses or otherwise stores, processes or transmits on behalf of the City. Additionally, as a requirement of this contract you must provide to the City a copy of your written Notice to customers that you are responsible for the security of cardholder data that you obtain and otherwise store, process or transmit.

Contractor agrees to comply with all City information security and technology policies, standards, and procedures when accessing City networks and computerized systems whether onsite or remotely.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by the Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

- 26. INTELLECTUAL PROPERTY RIGHTS:** Contractor grants to City a nonexclusive, non-transferable (except to a wholly-owned subsidiary of the City), and royalty-free right and license to install, use, and maintain the software, application(s), or similar technology to be provided to the City pursuant to this agreement (collectively, the "Deliverables") for the City's internal or business purposes. The City shall further have the right to reproduce the Deliverables to the extent reasonably necessary for such purposes. The City shall not, without the



## SECTION III – SPECIAL TERMS AND CONDITIONS

Consultant's prior written consent, transfer or sub-license its foregoing license rights (except to a wholly-owned subsidiary of the City) or reverse engineer, decompile, or otherwise attempt to derive source code from the Deliverables.

- 27. WARRANTIES:** Contractor warrants the hardware, software, application(s), or other technology assets provided to the City pursuant to this contract (collectively, the "Technology Assets"), for a period of one year starting with the date of final acceptance (the "Warranty Period"), to be substantially free of any condition which would make the Technology Assets fail to perform in material accordance with the requirements set forth in this Agreement, including any statement-of-work or scope-of-work document (each such condition to be considered an "Error"). Contractor specifically warrants that all software Technology Assets shall be free of any condition which could make them fail to perform in material accordance with this agreement (each such condition to also be considered an "Error") for a period of nine months after actual installation of the software. If the City reports to Contractor any errors in the system during the Warranty Period, then Contractor shall, at its expense, use reasonable commercial efforts to modify, replace, or otherwise remedy the faulty hardware, software, electrical component or other Technology Assets as quickly as reasonably practicable. Where possible, both parties shall attempt to resolve Errors through telephone instruction, issuance of updated documentation, corrective code, or hardware replacement or modification.
- 28. STANDARDS AND PRACTICES:** Technology Assets shall conform to the generally accepted standards and practices of the trade or industry involved. All work shall be executed by personnel skilled in their respective lines of work.
- 29. QUALIFICATIONS:** Contractor represents that it is fully experienced and properly qualified; is in compliance with all applicable license requirements; and, is equipped, organized, and financed to provide and/or perform the goods and/or services purchased by the City pursuant to this agreement.
- 30. INTELLECTUAL PROPERTY WARRANTIES:** Contractor warrants that:
- (a) The Technology Assets will be free of the rightful claim of any third party for or by way of infringement or misappropriation of patent, copyright, trade secret, trademark or other rights arising under the laws of the United States;
  - (b) No act or omission of Contractor will result in a third party holding any other claim that interferes with the City's enjoyment or use of the Technology Assets;
  - (c) Contractor owns or possesses all right(s), titles(s) and license(s) necessary to perform its obligations hereunder; and
  - (d) As of the effective date and throughout the term of this Agreement, Contractor has not conveyed and will not convey any rights or licenses to any third party regarding the Technology Assets, except to the extent the



## SECTION III – SPECIAL TERMS AND CONDITIONS

Technology Assets consist of commercial-off-the-shelf or similar software product(s).

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

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





**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 Indemnitee for losses arising from the work performed by the 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.

**2.1. 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.



**SECTION IV – INSURANCE AND INDEMNIFICATION**

**CITY OF PHOENIX**

**2.1.1. 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.”

**2.1.2. Worker’s Compensation and Employers’ Liability**

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

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

**2.1.3. Technology Errors and Omissions Liability**

- The policy must cover errors and omissions or negligent acts in the delivery of products, services, and/or licensed programs for those services as defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

- In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be





**SECTION IV – INSURANCE AND INDEMNIFICATION**

**CITY OF PHOENIX**

exercised for a period of two (2) years beginning at the time work under this Contract is completed.

**2.1.4. Network Security and Privacy Liability**

- The policy must cover but not be limited to (1) coverage for third party claims and losses with respect to network risks and invasion of privacy, (2) crisis management and third party identity theft response costs, and (3) cyber extortion.

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

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

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

2.2.1. 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.

2.2.2. The Contractor’s insurance coverage must be primary insurance and non-contributory with respect to all other available sources.

**2.3. NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, hand delivered or sent by facsimile transmission to **City of Phoenix Information Technology Department** at: [its.financial.procurement@phoenix.gov](mailto:its.financial.procurement@phoenix.gov)

**2.4. 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.



- 2.5. 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 **City of Phoenix, Information Technology Department - Contracts Manager, 251 W. Washington St 6<sup>th</sup> Flr. Phoenix, AZ 85003**. The City project/contract number and project description 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.**

- 2.6. 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.
- 2.7. 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

### 1. **INTRODUCTION**

The City of Phoenix (City) is seeking to implement a new public records request processing solution to be used by all departments except Police, Fire, and Municipal Court (exempt departments are subject to change).

The solution must be intuitive and easy to use by customers including city residents, businesses, members of the media, and elected officials. The solution must also be a reliable and efficient workflow tool for staff to use for coordinating, tracking, communicating internally and externally, and reporting active and historical record request details. The ideal solution may also include document hosting and redaction capabilities, as well as invoicing and fee collection functionality.

### 2. **BACKGROUND**

The City of Phoenix, as the fifth most populous city in the United States, continues to endeavor to be a technology leader. With a corporate-wide vision to “*work smarter, spend smarter, and improve customer service*”, the City welcomes and encourages vendors to think outside of the box, and propose innovative solutions that would satisfy all three tenets.

The City of Phoenix has established the following high-level goals for this project.

1. Acquire a solution to increase the efficiency and effectiveness of coordinating public records requests.
2. Create value for the public through implementation and thoughtful use of cloud-based Software as a Service (SaaS) technology.
3. Standardize technology and business processes for potential use and adoption by all City departments in the future.
4. Advocate for a mobile first strategy, enabling access to the solution from all mobile devices; tablets and smartphones.

The Arizona Public Records Law ([ARS §39-101](#)) generally prohibits cost recovery for public records requests. Accordingly, the costs of any individual licensing fees or annual subscriptions will be a priority when considering any procured solution.

### 3. **CURRENT STATE**

In 2016, the City centralized public records request processing among most city departments using a customized in-house SharePoint solution. At that time, there were limited vendors offering solutions at a competitive price or within the rollout timeline.



Public records requests are centrally coordinated and actively managed among approximately 30 departments with up to 100 active users.

Currently, city staff are tasked with manually generating and maintaining reports using limited captured data as reporting functionality is not available through the current system. Staff must also manually log communications with requestors since the current solution does not maintain common communication templates or have external communication or secure record delivery functionality.

The current solution uses existing citywide SharePoint licensing so there is no added licensing or annual cost to leverage existing software for this function.

The city has experienced approximately 20% annual increase in public records requests and has a growing need to procure a more secure, reliable, and efficient solution.

**4. DESIRED FUTURE STATE – ADDITIONAL HIGH-LEVEL REQUIREMENTS**

The key priorities of a new solution are to securely submit, track, and report public records requests. The ideal solution will:

- 4.1.** allow customers to submit and track requests and correspond with staff working on that request directly from the solution;
- 4.2.** have custom reporting capabilities allowing users to view reports from within the system and provide citywide reporting on turnaround-time by user, department, request or timeframe;
- 4.3.** have the capability for staff to enter requests on a customer’s behalf, or log records already provided (such as at a service counter) into the system for historical reference or reporting purposes and;
- 4.4.** have user role-based security and individual request view functionality as requests may also involve or be of interest to any of the city’s 13,000+ employees;
- 4.5.** be flexible and allow the city’s coordinator to directly update users, forms, email templates, reports, and other features as needed, rather than requesting minor changes from the vendor;
- 4.6.** be flexible and have the ability to expand services to other departments (as necessary) without requiring a major rebuild of the system



**SECTION V – SCOPE OF WORK**

**CITY OF PHOENIX**

- 4.7. The City’s desired future state entails a SaaS public records request solution that delivers a:
  - 4.5.1. highly available solution with measurable (i.e. key performance indicators) and consistent performance;
  - 4.5.2. system with industry best practice security controls to safeguard city data;
  - 4.5.3. seamless user interface for allowing non-technical staff to manage and report requested data;
  - 4.5.4. cost effective licensing and pricing model;
  - 4.5.5. training and support model to promote self-service and on-demand audio/video learning and;
  - 4.5.6. turnkey and hands-off support model for City information technology personnel.

**5. EVALUATION CRITERIA AND METHODOLOGY**

In accordance with the Administrative Regulation, 3.10, Competitive Sealed Proposal awards shall be made to the responsible proposer(s) whose proposal is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in the relative order of importance.

A.	Requirements	0 – 400 Points
B.	Pricing	0 – 350 Points
C.	Qualifications, Experience and References	0 - 150 Points
D.	Method of Approach	0 - 100 Points

**TOTAL AVAILABLE POINTS: 1000 Maximum**

**5.1. Requirements**

The Requirements evaluation will be based on the Offeror’s responses and demonstrated ability to meet the City’s requirements. Offeror must fully review Exhibit A – RFP 21-001 PRR SOW Requirements workbook (Excel File) and respond to each requirement listed in the tabs. Offeror must provide a brief narrative to demonstrate that the proposed solution meets or complies with the requirements.

Offeror must submit the completed workbook in its original Microsoft Excel format, unlocked, and without password protection and in PDF format.



**5.2. Pricing**

The Pricing evaluation will be based on the Offeror’s submittal in Exhibit B – RFP 21-001 PRR Pricing worksheet (Excel file). Offeror must fully review this worksheet and complete each field and/or cost associated with the proposed PRR system. The pricing stated must be a firm fixed price. Unless otherwise and specifically provided, the price is all-inclusive and must account for all necessary costs including, but not limited to: materials, labor, travel, incidentals, equipment, and any other items necessary to effectively conduct and complete the SOW.

Offeror must submit the completed workbook in its original Microsoft Excel format, unlocked and without password protection and in PDF format.

**5.3. Qualifications, Experience and References - Narrative**

Offeror must complete the Qualifications, Experience and References section by responding with a narrative for each requirement. Offeror is encouraged to provide attachments to their narrative responses, providing that the supplements clearly and concisely clarify response to the specific requirement. This tab must include the following information:

- Official Corporate or Agency Name
- Date Established
- Business Address(es)
- Proposer Contact Information
  - Name
  - Title
  - Telephone Number(s)
  - Email Address
  - Mailing Address
- Authorized Contact Information Including:
  - Name
  - Title
  - Telephone Number(s)
  - Email Address
  - Mailing Address
- A detailed organizational chart of the proposed Project Team
  - Representative resumes for all proposed implementation team members (including the Project Manager and the Executive Project Sponsor).

References:

- Provide a minimum of five (5) government agency references that have used the proposed solution version a minimum of 12 months, preferably 24 months.



- Proposers with fewer than 5 government references may substitute (2) large-scale corporate references.
- For each reference, Offeror must provide: the company or organization name, name and title of the contact person, address, telephone number, email address and web address for references PRR system.
- The City reserves the right to contact these references and discuss the client's level of satisfaction with the vendor and its solution(s).

**5.4. Method of Approach – Narrative**

Evaluation will be based on the Offeror's demonstrated ability to meet the City's project and scheduling needs. Complete the Method of Approach section by responding with a narrative for each requirement noted in Item 4 – Desired Future State – Additional High-Level Requirements. Offeror is encouraged to provide attachments to their narrative responses, providing that the supplements clearly and concisely clarify response to the specific requirement. This tab must include the following:

- Proposed Project Plan and Schedule to include
  - Milestones
  - Activities, Deliverables
  - Requirements described in the SOW
  - Communication Strategy
  - Requirements Validation
  - Data Migration Strategy (Optional)
  - System Set-up
  - Configuration and Integrations Strategy
  - IP Address Warming
  - Pre-Launch Strategy
  - Onsite Onboarding Strategy
  - Transition to Production Plan
  - Mentoring, Service and On-Going Support Strategy





## SECTION VI – SUBMITTALS

CITY OF PHOENIX

### SECTION VI: SUBMITTALS

1. **OFFER SUBMITTAL FORMAT:** The written offer must be signed by an individual authorized to bind Offeror and should provide the name, title, e-mail address and telephone number of individuals with authority to contractually bind the company and who may be contacted during the evaluation period.

Offers should be:

- Typewritten for ease of evaluation;
- Signed by an authorized representative of the Offeror;
- Submitted with contact information for the individual(s) authorized to negotiate with the City;
- Submitted with a table of contents and tabbed according to the following major sections:

**Tab 1 Executive Summary**

**Tab 2 Qualifications, Experience, and References**

**Tab 3 Method of Approach**

**Tab 4 Requirements (Excel file)**

**Tab 5 Pricing (Excel file)**

**Tab 6 Section VI – Submittals**

(including Offer, Acceptance, and All Required Form and Documents)

**Tab 7 Signed Addenda (if applicable)**

- Microsoft Excel Workbooks/Worksheets must be provided in the original format and in PDF format;
- Proposal responses utilizing URL references must include a written response in addition to a copy of the information in the form of a video or audio recording;
- This offer 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. **OFFER:** All offers shall be firm and fixed for a period of 180 calendar days from the solicitation opening date. Pass-through offer adjustments will be accepted after that date provided said adjustment(s) are submitted in writing with thirty days' advance notice and are accompanied by written documentation of a manufacturer's offer increase. Offer adjustment requests shall be sent to:

[ITS.Financial.Procurement@phoenix.gov](mailto:ITS.Financial.Procurement@phoenix.gov).

Offeror Name: \_\_\_\_\_

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**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

**3. COSTS AND PAYMENTS:**

**3.1 PAYMENT TERMS & OPTIONS:** Vendors must choose an option, if a box is not checked, the City will **default to 0% - net 45 days**:

Contractor offers a prompt payment discount of either \_\_\_\_\_% - 30 days or 0% – 45 days - to apply after receipt of invoice or final acceptance of the products (invoice approval), whichever date is later, starts the 30 days. If no prompt payment discount is offered, the default is 0%, net 45 days; effective after receipt of invoice or final acceptance of the products, whichever is later. **Payment terms offering a discount will not be considered in the price evaluation of your offer.**

Contractor may be paid immediately upon invoice approval, if enrollment is made to the Single Use Account (SUA) Program, administered by the City’s servicing bank (“Bank”). By checking this box, the vendor accepts transaction costs charged by their merchant bank and agrees not to transfer to the City those extra charges. The City will not pay an increase in our services for the SUA charges; if an audit uncovers an upcharge for the SUA charges the vendor will owe the City all costs. The vendor may opt-out of the SUA program once, but then may not rejoin during the same contract term. **For more information about the SUA program or to enroll, send email to mailbox.sua@phoenix.gov.**

**4. OPTION FOR ADDITIONAL QUANTITIES AND PRODUCTS:** The City anticipates considerable activity under the resultant contract(s). However, no guarantee can be made as to actual public records request services and/or products, that will be purchased under this contract. The City reserves the right to add, change or delete quantities or items as circumstances may require.

**5. BID PRICE SCHEDULE**

Refer to Exhibit B – RFP 21-001 PRR Pricing worksheet



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

6. **EMERGENCY TWENTY-FOUR HOUR SERVICE:** Emergency 24-hour service is to be provided by Contractor at no additional cost. The Contractor will provide an emergency contact person, with phone number, who is authorized to release material to the City of Phoenix during non-business hours, in the event of an emergency repair requirement. Any changes in contacts must be promptly submitted to the City.

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Alternate Contact \_\_\_\_\_

Telephone Number \_\_\_\_\_

7. **YEARS IN BUSINESS:** Contractor certifies that they have provided Public Records Request solution as listed in this solicitation for a period of one year.

Yes

No



**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  
<https://www.phoenix.gov/financesite/Pages/EProc-help.aspx>  
(see SECTION I – INSTRUCTIONS - CITY'S  
REGISTRATION)

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company 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 \_\_\_\_\_

**Offeror 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 \_\_\_\_\_ 2020  
Director or delegate, Department

\_\_\_\_\_  
City Clerk

Approved as to form this 19<sup>th</sup> 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

**CONFLICT OF INTEREST AND SOLICITATION TRANSPARENCY DISCLOSURE FORM**

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

1. Name of person submitting this disclosure form.

First	MI	Last	Suffix
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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:



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

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:**

**A. City Code Section 43-34**

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

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

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

**B. ARS Sections 38-501 et. Seq. & City Charter Chapter 11**

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

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

Offeror Name: \_\_\_\_\_





**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

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](http://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:

**8. Acknowledgements**

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

- I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.
- This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to **disqualification**.

**B. Fraud Prevention and Reporting Policy**

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

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



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

**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