



CITY OF PHOENIX

PUBLIC WORKS DEPARTMENT

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**INVITATION FOR BID
IFB 21-FMD-018 (KP)**

**ASPHALT AND STRIPING SERVICES
- REQUIREMENTS CONTRACT**



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SECTION I - INSTRUCTIONS

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

SOLICITATION RESPONSE CHECK LIST

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

- All forms have been completed and signed, including Solicitation Disclosure form.
- All Submittals are included.
- Reviewed and verified 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 the specified number of copies of the offer as indicated in Submittal section.
- Included signed addenda, if any.
- Addressed the mailing envelope to the Procurement Officer on the solicitation front page, at the address listed.
- The mailing envelope clearly shows your company name and address, the solicitation number, solicitation title and the offer opening date.

Mail the response timely – City must receive offers no later than the date and time indicated in the Schedule of Events or addenda.



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1. DESCRIPTION – STATEMENT OF NEED - TERM:

- 1.1. The City of Phoenix invites sealed offers for Asphalt and Striping Services, commencing for a one-year period with four one-year options to extend, beginning on or about December 1, 2020, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.
- 1.2. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.3. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

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

Vendors must be registered in the City’s procurePHX Self-Registration System at <https://www.phoenix.gov/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 (All times are local Phoenix time)	DATE	LOCATION
Solicitation Issue Date	Monday, August 24, 2020	
Pre-Offer Conference	Monday, August 31, 2020 at 10:00 a.m.	The public will be able to call the WebEx phone number noted below and listen to the Pre-Offer meeting live: Join by phone +1-415-655-0001 US Toll Access code: 146 221 5266
Written Inquiries Due Date	Wednesday, September 9, 2020 at 1:00 p.m.	kristina.pylant@phoenix.gov
Offer Due Date	Wednesday, September 23, 2020 at 1:00 p.m.	City of Phoenix, City Hall 200 W. Washington St. 1st Floor, Atrium* Phoenix, AZ 85003 The public will be able to call the WebEx phone number noted below and listen to the Bid Opening meeting live: Join by phone +1-415-655-0001 US Toll Access code: 289 818 970



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

The bid opening meeting will start 5 min after the bids are due.

*Atrium just beyond security checkpoint in grey bid box marked for Public Works Department.

4. PREPARATION OF OFFER:

- 4.1. All forms provided in 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.
- 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.



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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.

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

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. See Inquiries and Schedule of Events.

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.

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.

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.



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11. CERTIFICATION:

By signature in the offer section of the Offer and Acceptance page(s), Offeror certifies:

- The submission of the offer did not involve collusion or other anti-competitive practices.
- The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

12. SUBMISSION OF OFFER:

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

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

- 12.1. Offeror's Name
- 12.2. Offeror's Address (as shown on the Certification Page)
- 12.3. Solicitation Number
- 12.4. Solicitation Title
- 12.5. Offer Opening Date

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

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, and the prices may be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post a preliminary offer tabulation on the City's website, <https://solicitations.phoenix.gov/Awards> within five 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 reviewed the offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.

15. PRE-AWARD QUALIFICATIONS:

- 15.1 Offeror must have been in operation a minimum of five years. The Offeror's normal business activity during the past five years 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.)



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15.2 Equipment. Offeror will own or have assured access to (through hire, lease, purchase agreement, availability of manufacturing equipment, or other means) the following key items or equipment in full working order, and must demonstrate that, based on known commitment, they will be available for use in the proposed contract.

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:

16.3 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,

16.4 Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,

16.5 Safety record, including complaints or investigations; and,

16.6 Offeror history of complaints, and termination for convenience or cause, litigation or lawsuits.

16.7 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.

16.8 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 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



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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 with the City staff.
- 18.3. Offerors may discuss their proposal or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.
- 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. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.
- 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 will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

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 amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.



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- 19.2.** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 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.
- 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



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release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

21. LATE OFFERS:

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 late.

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 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. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

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

24.2. 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 will render an Offer nonresponsive.

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

25. EQUAL LOW OFFER:

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



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 Contractor to provide the information or evaluate the offer without the information.
- May:** Indicates something that is not mandatory but permissible.

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

- "A.R.S."** Arizona Revised Statute
- "Buyer" or "Procurement Officer"** City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.
- "City"** The City of Phoenix
- "Contractor"** The individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.
- "Contract" or "Agreement"** The legal agreement executed between the City of Phoenix, AZ and the Contractor.
- "Days"** Means calendar days unless otherwise specified.
- "Deputy Finance Director"** The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.
- "Employer"** Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
- "Offer"** Means a response from a supplier, contractor or service provider to a solicitation request that, if awarded, binds the supplier,



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contractor or service provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.

- “Offeror” Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
- “Solicitation” Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed bids, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, bids or quotes from suppliers.
- “Suppliers” Firms, entities or individuals furnishing goods or services to the City.
- “Vendor or Seller” A seller of goods or services.

2. CONTRACT INTERPRETATION:

- 2.1. APPLICABLE LAW:** This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.
- 2.2. CONTRACT ORDER OF PRECEDENCE:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:
 - 2.2.1. Special terms and conditions
 - 2.2.2. Standard terms and conditions
 - 2.2.3. Amendments
 - 2.2.4. Statement or scope of work
 - 2.2.5. Specifications
 - 2.2.6. Attachments
 - 2.2.7. Exhibits
 - 2.2.8. Instructions to Contractors
 - 2.2.9. Other documents referenced or included in the Solicitation
- 2.3. ORGANIZATION – EMPLOYMENT DISCLAIMER:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor’s obligations under the agreement are considered to be City’s employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen’s compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums



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appurtenant thereto concerning such persons, and will save and hold the City harmless with respect thereto.

- 2.4. **SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.
- 2.5. **NON-WAIVER OF LIABILITY:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.
- 2.6. **PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

3. CONTRACT ADMINISTRATION AND OPERATION:

- 3.1. **RECORDS:** All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.
- 3.2. **DISCRIMINATION PROHIBITED:** Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended.

Any contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.



3.3. EQUAL EMPLOYMENT OPPORTUNITY AND PAY: In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements or subleases of this Agreement entered into by supplier/lessee. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

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

3.3.2 Monitoring: The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed



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necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

- 3.4. **LEGAL WORKER REQUIREMENTS:** The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:
 - 3.4.1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.
 - 3.4.2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
 - 3.4.3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

- 3.5. **HEALTH, ENVIRONMENTAL AND SAFETY REQUIREMENTS:** The Contractor’s products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- 3.5.1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract
- 3.5.2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their 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



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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.

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, unless addressed specifically in the Scope of work for subscription services.

4.6. FUND APPROPRIATION CONTINGENCY: The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.



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- 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 goods or services covered by this Offer and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.
- 4.8. **F.O.B. POINT:** All prices are to be quoted F.O.B. delivered, unless specified elsewhere in this solicitation.
- 5. **CONTRACT CHANGES:**
 - 5.1. **CONTRACT AMENDMENTS:** Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.
 - 5.2. **ASSIGNMENT - DELEGATION:** No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.
 - 5.3. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.
- 6. **RISK OF LOSS AND LIABILITY:**
 - 6.1. **TITLE AND RISK OF LOSS:** The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.
 - 6.2. **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 beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a



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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 project manager.
- 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.

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 bid 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.
- 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 to assign to City all rights and interests Contractor may have in materials prepared under this contract that are “works for hire” within the meaning of the copyright laws of the United States, including any right to derivative use of the material.
- 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



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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:

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

8.3. CONTRACT CANCELLATION: All parties acknowledge that this contract is subject to cancellation by the City of Phoenix pursuant to the provision of Section 38-511, Arizona Revised Statutes.

9. STATE AND LOCAL TRANSACTION PRIVILEGE TAXES:

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in Arizona and the City of Phoenix. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. You may also find information at <https://www.phoenix.gov/finance/plt> or <https://www.azdor.gov/Business.aspx>. Once your offer is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City,



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the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in a offer price.

10. TAX INDEMNIFICATION:

Contractor will pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor, and require the same of all subcontractors. Contractor will hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

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.

12. NO ISRAEL BOYCOTT:

By entering into this contract, the Contractor certifies that they are not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel.



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1. **FREE ON BOARD (FOB):** Prices quoted shall be FOB destination and delivered, as required, to the following point(s): various City locations.
2. **PRICE:** All prices submitted shall be firm and fixed for the initial one year of the contract. Thereafter, price increases will be considered annually provided the adjustments are submitted in writing with 30 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc. Price decrease requests do not require supporting documentation and are allowed at any time during the contract term.

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

3. **DISCOUNTS FROM PUBLISHED CATALOGS/PRICE LISTS:** Contractor must indicate and provide with its submittal, if reasonable, the manufacturer's price list, or catalog that will be in effect at the commencement of the contract and from which the discounts offered will be evaluated. The Procurement Officer must be informed 30 days in advance of any new price list or catalogs and the respective date(s).

Any terms and conditions contained in the parts price list(s) or catalog(s) will not take precedence over the City's terms and conditions specified herein.

- 3.1 All discounts offered will be firm and fixed for the entire contract period. Discounts offered must be expressed as a single percentage (%) figure for each contract item. Offers containing chain or multiple discounts may be considered non-responsive.
- 3.2 Offers will be submitted based on a discount from a manufacturer's most Published Price List(s) or Catalog which is common to, and accepted by, the industry in general. The lists must be printed or available online, properly identified, and dated as to issuance and effectiveness.
- 3.3 Revised Price Lists or Catalogs may be used as a means of price adjustment. However, all offers are to be firm for a period of 180 days after the solicitation due date and pricing cannot be revised during that time. Revised pricing will be accepted only in the event of an industry-wide price change, as evidenced by the issuance of revised price lists, by the manufacturer. Price adjustments will not be made for changes in freight costs.

New pricing will not become effective until revised list(s) are submitted to the City under Contractor cover letter identifying the applicable contract number. Contractor cover letter and pricing list(s) must be date, signed, and submitted to the Procurement Officer. One electronic copy of revised price list will be required.

All invoices must include the manufacturer's part number, list price and discount percentage, net price extended and totaled. The City reserves the right to request a hard copy of the manufacturer's documented price listing for any item(s) invoiced.



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

5. **METHOD OF INVOICING:** Invoice must be emailed in .pdf format to invoices@phoenix.gov and must include the following:

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

The original invoice from the subcontractor must be submitted with the Contractor’s invoice for payment and must follow the Method of Invoicing requirements as stated herein.

6. **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.

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

8. **SUPPLIER PROFILE CHANGES:** It is the responsibility of the Contractor to promptly update their profile in procurePHX at 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.

9. **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.

10. **AUTHORIZED CHANGES:** The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within thirty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the Deputy Finance Director or Department Director prior to the institution of the change.

11. **CLEANING:** Contractor will keep the premises clean of all rubbish and debris generated by the work involved and will leave the premises neat and clean. All surplus material, rubbish, and debris



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will be disposed of by the Contractor at their expense. The work area shall be cleaned at the end of each work day.

All materials, tools, equipment, etc., shall be removed or safely stored. The City is not responsible for theft or damage to the Contractor's property. All possible safety hazards to workers or the public must be corrected immediately and left in a safe condition at the end of each work day. If there is a question in this area, the City's department contact will be consulted.

- 12. **SUSPENSIONS OF WORK:** The Procurement Officer and the project manager reserve the right to suspend work wholly or in part if deemed necessary for the best interest of the City. This suspension will be without compensation to the Contractor, other than to adjust the contract completion/delivery requirements.
- 13. **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.
- 14. **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.
- 15. **PERFORMANCE INTERFERENCE:** Contractor shall notify the City's department contact immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.

Department CDCR	Contact	Phone Number
Public Works	Monica Treesh	602-262-6820
Aviation	Pete Taylor	602-683-3659

- 16. **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 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.

- 17. **ADVERTISING:** Contractor will not advertise or publish news releases concerning this contract without the prior written consent of the Deputy Finance Director or Department Director, and the City will not unreasonably withhold permission.
- 18. **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.



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- 19. **STRICT PERFORMANCE:** Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.
- 20. **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.
- 21. **MISCELLANEOUS FEES:** Additional charges for fuel surcharges, delivery charges, dealer prep, environmental fees, waste disposal, shop supplies, set-up, mobilization, demobilization, freight and/or shipping and handling, etc. will not be paid. These costs must be incorporated in the pricing provided in the bid price schedule.

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

- 22. **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.
- 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



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

23.5 Contractor's Default; Liquidated Damages; Reservation of Remedies for Material Breach: If Contractor is required to access any City facilities without an escort, City badging is required. Contractor's default under this section will include, but is not limited to, the following:

- Contract Worker gains access to a City facility(s) without the proper badge or key;
- Contract Worker uses a badge or key of another to gain access to a City facility;
- Contract Worker commences services under this agreement without the proper badge, key or background screening;
- Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable background screening; or
- Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement.
- Contractor acknowledges and agrees that the access control, badge and key requirements in this section are necessary to preserve and protect the public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this section will constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the Contractor will be liable for and pay to the City the sum of \$1,000.00 for each breach by Contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this agreement if Contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages if Contractor breaches this section. The parties further agree that three breaches by Contractor in this section arising out of any default within a consecutive period of three months or three breaches by Contractor in this section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this agreement by Contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

23.6 Employee Identification and Access: Contract Workers are forbidden access to designated restricted areas. Access to each building will be as directed by the authorized Phoenix authorized representative. Contract Workers are not authorized access other than



SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

during scheduled hours. Access to the building will be directed by the City's authorized representative.

Only authorized Contract Workers are allowed on the premises of the City facilities/buildings. Contract Workers are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contract Worker.

Unless otherwise provided for in the scope of work:

- Contract Workers must **always** have city issued badges and some form of verifiable company identification (badge, uniform, employee id).
- Contractor will supply a list of the names and titles of all employees requiring access to the buildings. It is the Contractor's responsibility to provide updates and changes of personnel as necessary.

23.7 Key Access Procedures: If the Contractor Worker's services require keyed access to enter a City facility(ies), a separate key issue/return form must be completed and submitted by the Contractor for each key issued. Contractor must submit the completed key issue/return form to the appropriate badging office.

23.8 Stolen or Lost Badges or Keys: Contractor must immediately report lost or stolen badges or keys to the City's appropriate badging office. If the badge/key was stolen, Contract Worker's must report the theft to their local police department. Prior to issuance of a new badge or key, a new badge application or key issue form must be completed, submittal of a police department report for stolen badges, and applicable payment of the fee(s) listed herein.

23.9 Return of Badge or Key: All badges and keys are the property of the City and must be returned to the City at the badging office within one business day (excluding weekends and City holidays) of when the Contract Worker's access to a City facility is no longer required to furnish the services under this agreement. Contractor will collect a Contract Worker's badge and key(s) upon the termination of the Contract Worker's employment; when the Contractor Worker's services are no longer required at a City facility(s); or upon termination, cancellation or expiration of this agreement.

23.10 Badge and Key Fees: The following constitute the badge and key fees under this agreement. The City reserves the right to amend these fees upon a 30-day prior written notice to Contractor.

Replacement Badge Fee:	\$55.00 per badge
Lost/Stolen Badge Fee:	\$55.00 per badge
Replacement Key Fee:	\$55.00 per key
Replacement Locks:	\$55.00 per lock

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:



SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

- 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,
- 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.



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- 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.

The City may, at any time, in its sole discretion, refuse to allow an employee access to an area for any of the following reasons, but not limited to:

- Conviction of a felony.
- Conviction of a misdemeanor (not including traffic or parking violation).
- Any outstanding warrants (including traffic and parking violations).
- A person currently on parole or probation.
- A person currently involved in an investigation.

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

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

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

26. PRE-CONSTRUCTION CONFERENCE

A pre-construction conference will be held by the City's 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.



**GROUP C AND GROUP D AVIATION ONLY:
ADDITIONAL BADGNGING REQUIREMENTS FOR AVIATION ONLY**

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

Contract Worker Background Screening

Contractor agrees that all contract workers and subcontractors (Contract Workers) that Contractor furnishes to the City pursuant to this Contract shall be subject to background and security checks and screening (Background Screening). Contractor further agrees that the Background Screening required in this Section is necessary to preserve and protect public health, safety, and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Contract. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of Contractor’s services under this Contract or Contractor’s failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Contractor and its Contract Workers shall take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this Contract.

27.1 Background Screening Requirements and Criteria

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

27.2 Additional City Rights Regarding Security Inquiries

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

- 27.2.1 Have a Contract Worker be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4) or Phoenix City Code § 4-22 or both;
- 27.2.2 Act on newly acquired information, whether or not such information should have been previously discovered;
- 27.2.3 Unilaterally change its standards and criteria relative to the acceptability of Contract Workers; and
- 27.2.4 Object, at any time and for any reason, to a Contract Worker performing work, including supervision and oversight, under this Contract.

27.3 Contractor Certification

By executing this Contract, Contractor certifies and warrants that Contractor has read the Background Screening requirements and criteria in this Section, understands them, and that all Background Screening information furnished to the City is accurate and current. A Contract Worker rejected for work under this Contract shall not be proposed to perform work under any other City contract or engagement without the City’s prior written approval.

27.4 Terms of This Section Applicable to all of Contractor’s Contracts and Subcontracts

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



SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

27.5 Materiality of Background Screening Requirements; Indemnity

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

27.6 Continuing Duty; Audit

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

28. CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENTS

A contract worker shall not be allowed to begin work on airport property without the contract worker’s receipt of a city-issued badge. A badge will be issued to a contract worker solely for access to the areas of the airport to which the contract worker is assigned. Each contract worker who enters airport property must use the badge issued to the contract worker.

28.1 Badges

Upon notification from Contractor’s authorized agent, the Contract Worker will proceed to the Badging Office for processing and issuance of a badge. The City will not process the badge until the Contract Worker satisfies the Background Screening requirements. The Contract Worker shall comply with all requirements and furnish all information requested by the Badging Office. All fees associated with security badging will be assessed in compliance with Phoenix City Code § 4-22. Current badging procedures and fees are available for review at <https://www.skyharbor.com/security/BadgingInformation>.

28.2 Key Access Procedures

If a Contract Worker’s services require keyed access to enter a City facility, a separate key issue and return form must be completed and submitted to the City project manager by Contractor for each key issued.

28.3 Stolen or Lost Badges or Keys

Contractor shall immediately report lost or stolen badges or keys to the City. A new badge application or key issue form shall be completed and submitted along with payment of the applicable fees prior to issuance of a new badge or key

28.4 Return of Badges or Keys

All badges and keys are the property of the City and must be returned to the City at the Badging Office within one (1) business day after the Contract Worker’s access to a City facility is no longer required to furnish the services under this Contract. Contractor shall collect a Contract Worker’s badge and all keys (1) upon the termination of the Contract Worker’s employment, (2) when the Contract Worker’s services are no longer required at a City facility (3), and upon termination, cancellation, or expiration of this Contract.



SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

28.5 Contractor's Default; Liquidated Damages; Reservation of Remedies for Material Breach

Contractor's default under this Section shall include the following:

- 28.5.1 A Contract Worker gains access to a City facility without the proper badge or key;
- 28.5.2 A Contract Worker uses another person's badge or key to gain access to a City facility;
- 28.5.3 A Contract Worker commences services under this Contract without the proper badge, key, or Background Screening;
- 28.5.4 A Contract Worker or Contractor submits false, incomplete, or misleading information or negligently submits incorrect information to the City to obtain a badge, key, or applicable Background Screening; or
- 28.5.5 Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility, or upon the expiration, cancellation, or termination of this Contract. Contractor acknowledges and agrees that the access control, badge, and key requirements in this Section are necessary to preserve and protect public health, safety, and welfare. Accordingly, Contractor agrees to properly cure any default under this Section within three (3) business days from the date notice of default is sent by the City. Contractor's failure to properly cure any default under this Section shall constitute a breach of this Section. In addition to any other remedy available to the City at law or in equity, Contractor shall be liable for and shall pay to the City the sum of \$1,000.00 for each breach by Contractor of this Section. The parties agree that the foregoing amount is reasonable and approximates the actual or anticipated loss to the City at the time and making of this Contract in the event that Contractor breaches this Section. Further, the parties agree to the foregoing amount because of the difficulty of proving the City's actual damages in the event Contractor breaches this Section. The parties further agree that three (3) breaches of this Section by Contractor within a three-month period of time or three (3) breaches by Contractor of this Section arising out of the same default within a period of twelve (12) consecutive months shall constitute a material breach of this Contract by Contractor and the City expressly reserves all of its rights, remedies, and interests under this Contract at law and in equity, including termination of this Contract.



SECTION IV – INSURANCE AND INDEMNIFICATION

1. **INDEMNIFICATION CLAUSE:**

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

2. **INSURANCE REQUIREMENTS:**

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. 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.

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



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

arising out of the activities performed by, or on behalf of the Contractor.”

2.1.2. Automobile Liability

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

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

The policy must be endorsed to include the 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, including automobiles owned, leased, hired or borrowed by the Contractor.”

2.1.3. 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.

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

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

4. 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 Public Works Department, Kristina Pylant, 200 W. Washington Street, 7th Floor, Phoenix, AZ 85003).**

5. 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.

6. 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



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

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 Public Works Department, Kristina Pylant, 200 W. Washington Street, 7th Floor, 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.**

7. **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.
8. **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 IV – INSURANCE AND INDEMNIFICATION

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SECTION IV – GROUP C AND GROUP D AVIATION ONLY: INSURANCE AND INDEMNIFICATION

1. 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 subcontractors. 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.

1.1 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.

1.1.1 Commercial General Liability – Occurrence Form: Policy must include bodily injury, property damage and broad form contractual liability coverage.

General Aggregate	\$5,000,000
Products – Completed Operations Aggregate	\$5,000,000
Personal and Advertising Injury	\$5,000,000
Each Occurrence	\$5,000,000

- 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.”
- Policy must not contain any exclusions for operations on or near airport premises.

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

Combined Single Limit (CSL)	\$5,000,000
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- 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, including automobiles owned, leased, hired or borrowed by the Contractor.”
- Policy must not contain any exclusions for operations on or near airport premises.



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

1.1.3 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. ADDITIONAL INSURANCE REQUIREMENTS:

The policies must include, or be endorsed to include, the following provisions:

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

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, Aviation Department
 Contracts and Services Division
 2485 E. Buckeye Road
 Phoenix, AZ 85034-4301

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.

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



SECTION IV – INSURANCE AND INDEMNIFICATION

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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 Public Works Department, Crystal Ramirez, 200 W. Washington St., 7th Floor, 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.**

The initial certificates required by this Contract shall be sent directly to:

City of Phoenix, Aviation Department
Contracts and Services Division
2485 E. Buckeye Road
Phoenix, AZ 85034-4301

All subsequent and renewal certificates of insurance and endorsements shall be sent directly to:

City of Phoenix, Aviation Department
c/o EXIGIS Insurance Compliance Services
P.O. Box 4668 – ECM #35050
New York, NY 10163-4668
Email: certificates-cityofphoenix@riskworks.com

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.

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 OF WORK

CITY OF PHOENIX

SECTION V – SCOPE

1. SCOPE

The City of Phoenix Public Works Department is soliciting for Asphalt and Striping Services including asphalt paving, crack fill, sealing, milling, saw cutting, safety bollards, wheel stops, handicap signage and striping on an as-needed basis. Contractor will provide all labor, materials, accessories, tools, equipment, administration and transportation to perform the Asphalt Services as described in accordance with the terms, provisions, and specifications contained herein.

The scope of work and minimum specifications define the quality and characteristics of the desired materials and application. They are based upon specifications for known acceptable processes and materials.

2. REFERENCES AND DEFINITIONS

References and definitions used for specifications and in the solicitation:

American Association of State Highway and Transportation Officials (AASHTO):
www.transportation.org

American with Disabilities Act (ADA): www.ada.gov

Arizona Department of Transportation (ADOT): www.azdot.gov

ASTM International (ASTM): <http://www.astm.org/>

International Slurry Surfacing Association (ISSA): www.slurry.org

Maricopa Association of Governments (MAG): www.mag.maricopa.gov

Occupational Safety and Health Administration (OSHA) www.osha.gov

Pima Association of Government (PAG) www.pagnet.org

Portland Cement Association (PCA): www.cement.org

Group C and Group D Aviation Only: FAA Advisory Circulars most current editions can be found at the link below https://www.faa.gov/airports/resources/advisory_circulars/

3. CONTRACT CONTACT

All work under this contract will be coordinated with the City Department Contract Representative (CDCR) requesting service.

4. CONTRACTOR QUALIFICATIONS

- 4.1. Have a minimum of five (5) years' experience in all aspects of asphalt work and services (Groups A and C).
- 4.2. Have a minimum of five (5) years' experience in all aspects of asphalt striping work (Groups B and D).
- 4.3. Contractor will remain properly and currently licensed for all aspects of the services to be performed for the duration of the contract.



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- 4.4. Contractor's employees and/or any subcontractors must obtain required badging from the City of Phoenix, as listed in Section III – Special Terms and Conditions, and must wear the badges at all times, while on City property.

5. CONTRACTOR REQUIREMENTS

- 5.1 Contractor will provide CDCR with a written quote for all projects within ten (10) calendar days from receipt of notification from CDCR.
- 5.2 Contractor will commence work within fifteen (15) calendar days from receipt of written purchase order or shopping cart number provided by CDCR.
- 5.3 Contractor will maintain the original site foreman for the duration of the project.
- 5.4 Site foreman will be capable of verbal communication with the CDCR and the crew/laborers.
- 5.5 Contractor will furnish the CDCR with a schedule for each project individually (schedule will cover inception to completion) within five (5) calendar days of project approval to begin from the CDCR.
- 5.6 Upon commencement of the project, the project will proceed daily as dictated by the aforementioned schedule and specified hours of work unless agreed upon by the CDCR or prohibited by other factors.
- 5.7 Any changes to the established schedule must have prior written approval by the CDCR.
- 5.8 If or when Contractor anticipates working less than a full day on any part of an assigned project, the Contractor will communicate their anticipated arrival and departure times for that specific day to the CDCR.
- 5.9 The Contractor is required to communicate to the CDCR by telephone, voicemail or email, any type of alternative work schedule within a minimum of two (2) hours prior to arrival on the project site.
- 5.10 Contractor will communicate project status to the CDCR every day from start to finish on the project.
- 5.11 Contractor will advise the CDCR immediately of equipment breakdown or other delays affecting the progress of the work.
- 5.12 Contractor will be familiar with and adhere to all special terms, conditions and requirements regarding work at City of Phoenix facilities.
- 5.13 Contractor will provide the CDCR with a document outlining the terms and conditions of all warranties.
- 5.14 Contractor will respond and adhere to all direction from the CDCR at all times.
- 5.15 Contractor will coordinate a pre-project walk-through with the CDCR to become aware of existing conditions at each project location prior to the start of any work.
- 5.16 If an approved subcontractor is being used by the Contractor, the subcontractor will attend the walk-through meeting.

6. GENERAL REQUIREMENTS

- 6.1. If the Contractor uses subcontractors for asphalt or striping work under this contract, the Contractor will guarantee that all work and materials used meet the specifications and requirements of an awarded contract. Any work that fails to meet the specifications and requirements of this contract, the Contractor will bring them up to the required specifications at no additional cost to the City, and within two (2) weeks of notification by CDCR.



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- 6.2. Standard of quality and performance indicated in the specifications and scope of work are to be understood as the minimum requirements. Unless otherwise indicated in the specifications or drawings, all work will be done in accordance with specifications and/or recommendations of the manufacturer of the product to be applied.
- 6.3. All work will conform to current applicable standards, specifications and codes.
- 6.4. Contractor will observe all current applicable safety regulations as required by OSHA and the City.
- 6.5. Hours allowed to work on projects will be established prior to the start of each project. Weekend work may be permitted based on project scope, as long as Contractor submits this request to the CDCR and the CDCR approves it in writing.
- 6.6. Contractor will provide a performance guarantee for full-depth asphalt pavement for two (2) years. All other asphalt work will be guaranteed for a period of one (1) year.
- 6.7. Contractor will provide a performance guarantee for cement concrete bumpers for two (2) years.
- 6.8. Contractor will provide a performance guarantee for the installation of handicap signage for two (2) years.
- 6.9. Contractor will provide a performance guarantee for asphalt striping for one (1) year.
- 6.10. All concrete materials will comply with current standard ASTM specifications for PCA.
- 6.11. Contractor will not dump or put anything into drywells, dumpsters, or on landscape areas at any time. Contractor will properly dispose of all materials or left over product according to current applicable federal, state, and local disposal regulations from job site.
- 6.12. Asphalt Contractor will supply all Material Safety Data Sheets (MSDS) forms required for compliance with OSHA safety and health standards. This includes any products containing asphalt, artificial asphalt, asphalt rock or bituminous rock, amosite, catalyzed asphalt, petroleum asphalt, petroleum pitch, coal tar pitch, and all paints. The MSDS will be supplied by the manufacturer and made available to the City upon request.
- 6.13. Striping Contractor will supply all MSDS forms required for compliance with OSHA safety and health standards. This includes any products containing slurry, polymers, lime, glass beads, or thermoplastics, and all paints. The MSDS will be supplied by the manufacturer and made available to the City upon request.

7. GENERAL REQUIREMENTS FOR ASPHALT

- 7.1. All water will be potable and compatible with the slurry mix.
- 7.2. Slurry seal will be applied according to the manufacturer's recommendation.
- 7.3. Contractor will oversee that segregation of aggregate in storage and handling is prevented. If segregation occurs, materials will be handled in a manner to correct segregation.
- 7.4. No sealant will be applied until area to be sealed has been cleaned and prepared. Contractor will use suitable methods to protect sealant from all types of traffic until new surface has cured sufficiently to support traffic.
- 7.5. Contractor will clean all sidewalks, driveways and other surfaces adjacent to work area of dust, dirt, rocks and any other debris prior to maintenance material being applied, unless specified by City differently prior to the start of project.
- 7.6. In final cleanup, Contractor will replace any materials disturbed as a result of erecting or removing barricades, remove and properly dispose of all debris generated, and repair defaced or disfigured finishes caused by work performed, including any concrete structures where asphalt products have been splashed.



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- 7.7. Contractor must provide portable restrooms for construction employees and/or subcontractors.
- 7.8. Contractor will use Reclaimed Asphalt Pavement, Recycled Asphalt Concrete, Hot Mix and Hot In-Place Recycling, as much as possible. Current applicable specifications of MAG and PAG will be used, or other current applicable specifications as appropriate.

8. EXISTING ASPHALT PAVEMENT AND CRACK SEALANT REQUIREMENTS

- 8.1. If routing is required, the Contractor will route cracks to ½” by ½” before sealant is applied.
- 8.2. Prior to sealing, the Contractor will have all qualifying cracks cleaned by blowing with compressed air, blowing at 150 CFM or more, until clean. If weeds or grass are present, growths will be removed and the crack cleaned. Application of any necessary sterilant by the Contractor is not allowed.
- 8.3. Prior to application of any surface treatment, the Contractor will apply a crack sealant that meets or exceeds ASTM standards, be applied to cracks of ¼” wide, or larger. Crack sealant will be hot elastomeric asphalt sealant formulated specifically to be a stiff, non-tracking, yet flexible sealant specifically suited for areas subject to slow moving vehicle or pedestrian traffic or for local conditions.
- 8.4. Sealant will be heated to manufacturer’s recommended temperatures. Sealant will not be applied to wet cracks. Material applied will have a softening point of not less than 208 degrees and a viscosity of greater than 2500 cps.
- 8.5. The Contractor will use a double boiler Melter to melt and apply crack sealing material. Melter will be fully agitated and be capable of heating material to required application temperature and maintaining that temperature. Melter will be equipped with thermometers to monitor both temperature of material and heat transfer oil.
- 8.6. The Contractor will slightly overfill cracks and then level with a squeegee leaving a 1” band on both sides of the sealed crack. If high temperature or local traffic increase the possibility of pick up by foot or tire traffic, a fine mesh sand or ash blotting material will be placed over filled cracks.
- 8.7. Crack sealer will be cured according to manufacturer’s instructions.

9. EXISTING ASPHALT PAVEMENT AND ASPHALT SURFACE PATCHING REQUIREMENTS

- 9.1. When skin patching is required, the Contractor will power sweep and clear the area of all loose material. Oil spots will be scraped and cleaned with a mild detergent to remove any petroleum residue. Manholes, valve boxes, drop inlets will be protected by suitable methods.
- 9.2. Asphalt material used will be 3/8” maximum size aggregate and 5.5% to 6% asphalt by total weight. If conditions warrant, a hot-mixed sand seal may be used. When patching an existing waterway such as a gutter, sand seal will be used.
- 9.3. Contractor will treat entire area to be patched with a coat of primer tack extending about one foot beyond distressed area, or industry recommended standard.
- 9.4. Contractor will mark location of edges with a chalk line or marking paint to ensure even edges. Patches will be installed with straight, even edges. Any ragged, raveled, or uneven edges will be corrected.
- 9.5. Contractor will apply patching material to a depth of not more than 1” for 3/8” maximum size aggregate or ¼” for sand seal. Make sure edges are square or rectangular.



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- Pavement will be installed in a manner to prevent segregation of aggregate and will be raked to feather the edges smoothly into existing pavement to prevent an abrupt edge.
- 9.6. Contractor will roll and compact with a 3-5-ton static roller, if the roller can move without interruption or turning. If patch is in flow of water, or where roller would require a sharp turn, a vibratory plate will be used. Patch will be installed to fit existing grade and not block flow of water or cause damming of water behind it.
 - 9.7. Contractor will allow skin patches sufficient time to cure before application of any surface treatment.
 - 9.8. If a patch is installed when ambient temperature is between 32-50 degrees Fahrenheit, the Contractor will coat the patch with an asphalt-based emulsion to retard raveling.

10. EXISTING ASPHALT PAVEMENT AND FULL DEPTH ASPHALT SURFACE PATCHING REQUIREMENTS

- 10.1. Contractor will recompact subgrade and asphalt base course (ABC) to ASTM D698 (clay soils) or ASTM D1557 (aggregate bases, sandy soils and sand) standards. Should subgrade be water saturated or inadequate, material will be removed and replaced with new ABC and compacted to at least 95% of maximum density.
- 10.2. Asphalt material used for full depth asphalt patching will meet all material specifications for E-3/8", D-1/2", or C-3/4".
- 10.3. New asphalt material will be 1/4" to 3/8" above existing pavement before compaction or to current industry standard.
- 10.4. Contractor will roll and compact with a 3-5-ton static roller (or current ASTM specifications), compacting new pavement to 1/8" to 1/4" above existing asphalt. Materials will be applied to return pavement to original condition and to prevent ponding.
- 10.5. Contractor will allow patched areas sufficient time to cure before application of a surface treatment, usually at least thirty (30) days.
- 10.6. Contractor will have sufficient barricades and warnings to protect and prevent pedestrians and vehicles from entering the work area.

11. EXISTING ASPHALT PAVEMENT AND CATIONIC TYPE II REQUIREMENTS

- 11.1. Cationic slurry seal will consist of a mixture of an approved emulsified asphalt, mineral aggregate and water with specified additives, and be proportionally mixed and uniformly spread over properly prepared surface. Completed slurry seal will leave a homogeneous mat, adhere firmly to prepared surface and have a skid resistant surface texture.
- 11.2. Bituminous materials and mineral aggregates will be as specified in sections of the standards and specifications as distributed by MAG and PAG, or other current applicable standards and specifications.
- 11.3. Cationic slurry seal will be a Type II as outlined by ASTM, AASHTO, ISSA or local governing agencies, and meet all current applicable specifications for aggregate and mineral filler, emulsified asphalt and application.
- 11.4. After the initial slurry seal, the Contractor will check the surface for cracks and holes. If cracks are found, the surface will be sealed before the second slurry coat.
- 11.5. The Contractor and CDCR will agree on type of gradations prior to project start. Type II will be used in most applications. Grading of the aggregate will be by AASHTO and ASTM standards.
- 11.6. Contractor will use slurry-mixing equipment for a continuous flow.



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- 11.7. ISSA recommended standards will be used to check calibration of equipment, if a machine manufacturer's instructions are not available. Only machines that have been calibrated and tested will be used. Mixer will thoroughly blend all materials to form a homogeneous mass before leaving mixer.
- 11.8. Slurry spreading boxes used by the Contractor will have squeegees in the front and back. Any type of drag pulled behind spreader box will not be stiffened by hardened slurry.
- 11.9. If requested, a test strip will be performed. Slurry mixtures placed in testing area will conform in design mix to what will be used on the job. Samples will be made to verify mix consistency and proportioning, as well as the rate of application. Tolerances for individual materials as well as slurry seal mixture are as follows: $\pm 1\%$ for asphalt content; $\pm 4\%$ of aggregate passing each sieve; percentage of aggregate passing will not go from high end to low end of specified range of any two successive sieves; slurry consistency will not vary more than ± 0.5 cm from job mix formula after field adjustments.
- 11.10. Prior to sealing condition of the surface, Contractor will follow recommended industry standards. All loose material will have been removed; silt spots and oil spots will be cleaned. If water is used, cracks will be allowed sufficient time to dry. Manholes, valve boxes, drop inlets will be protected by suitable methods.
- 11.11. Contractor will pre-wet surface area by fogging ahead of slurry box when required by local conditions. Water used will make entire surface damp with no apparent flowing water in front of the slurry box. Rate of fog spray will vary according to the surface texture, temperature, humidity and dryness of the pavement.
- 11.12. Slurry mixture will be of desired consistency upon leaving mixer, which should not require additional materials added to the mixture. A sufficient amount of slurry will be carried in all parts of box to guarantee even spreading. Overloading of spreader will be avoided. No lumping, bailing or unmixed aggregate will be permitted.
- 11.13. Contractor will leave no streaks caused by oversized aggregate on the finished surface. The CDCR may stop work if the situation warrants.
- 11.14. Slurry mixture will possess sufficient stability so that premature breaking of slurry seal in spreader box does not occur.
- 11.15. For areas that cannot be reached with slurry seal machine, the Contractor will use hand squeegees to provide complete and uniform coverage. Hand work area will be dampened prior to application. Hand worked areas will have same type of finished look as machine work. Hand work will be completed while machine is applying slurry.
- 11.16. If rolling is necessary in areas of slow turning traffic, 9-wheel pneumatic roller will be rolled a minimum of three times as indicated by industry standards. No rolling is permitted until slurry seal has cured enough so that no slurry is picked up on the tires of the roller. Rolling will be used to smooth ridges and finish surface, as needed.
- 11.17. Contractor will ensure straight lines along curbs and shoulders to provide an acceptable appearance. Slurry runoff will not be permitted. Excessive buildup, uncovered areas of unsightly appearance will not be permitted on longitudinal or transverse joints. Contractor will use a suitable width spreading equipment to produce a minimum number of longitudinal joints throughout the project. When possible, longitudinal joints will be placed on lane lines; half passes and odd width passes will be used only in minimum amounts. No half passes will be permitted as the last pass of any paved area.
- 11.18. All areas, such as manhole covers, walkways and gutters will have slurry seal removed. Debris will be removed daily and deposited in a legal landfill.



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- 11.19. Slurry seal will be measured and invoiced by square yards/or square foot, or weight of aggregate and weight of emulsion used on work completed. If invoiced by the weight of aggregate and emulsion, Contractor will submit a certified affidavit and delivery tickets, which show quantities of each material delivered to job site and used in project. Price will be full compensation for furnishing all materials and for all preparation, mixing and applying these materials, and for all labor, equipment, tools, test design, cleanup and incidentals necessary to complete and warrant the job.
- 11.20. Contractor may separately price extensive pre-project work that is completed thirty (30) or more days prior to application of slurry seal.
- 11.21. Additional cost of painted parking symbols and handicap parking signage, after application has cured, may be offered.

12. ASPHALT EMULSION SEAL COAT MATERIAL REQUIREMENTS

- 12.1. Emulsified asphalt sealers will be used with a minimum of 2%-3% latex or co-polymer added, when specified in scope of work or by manufacturer's recommendation. Mineral filler will be added in quantities of 1 to 3 pounds of grade #60 silica sand (or approved equal mineral filler with same sieve size) per gallon and mechanically agitated. Where material has silica or other mineral additives added by the manufacturer, no additional silica would be required. When a second coat of sealer is required, second coat will contain same amount of silica as the first coat. Contractor will supply the manufacturer's guaranteed material specification sheet indicating such silica has been added, if requested by the CDCR. Dilution of material will not exceed 20% to 30% of the manufacturer's concentrate of solids for asphalt-based products, as specified in manufacturer's material product specification data sheet.
- 12.2. Specifications for this product will also follow the appropriate section of the MAG and PAG standards and specifications for public works construction.
- 12.3. Asphalt emulsion sealer will contain at least 55% non-volatile materials when using current ASTM standards. Nonvolatile residue will be between 25 % and 35% by weight soluble in trichloroethylene. Manufacturer's required specification will be used.

13. EXISTING ASPHALT PAVEMENT AND FOG SEALANT REQUIREMENTS

- 13.1. Pavement will be in good condition with only fine cracking and little raveling of fine aggregate and ordinary wear and tear for fog sealant application.
- 13.2. Contractor will apply a light application of slow-setting emulsified asphalt diluted with water that will be used to renew old asphalt surfaces and to seal small cracks and surface voids.
- 13.3. Contractor will dilute the emulsion with an equal amount of water and sprayed at rates that meet manufacturer's specifications or current applicable industry standards.
- 13.4. When applying emulsified asphalt to a parking lot, Contractor will arrange alternative parking with the City during construction and curing period.
- 13.5. Contractor will exercise caution when spraying liquid asphalt or emulsified asphalt near building walls and concrete curbs. A movable shield or building paper will be used to protect structures and curbing.
- 13.6. When the Contractor uses a distributor spray bar, height of the bar will be no more than necessary for adequate coverage.
- 13.7. In localized areas where extensive fuel spillage is likely, Contractor will use commercially available sealers that are impervious to petroleum solvents.



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14. APPLICATION OF NEW ASPHALT PAVEMENT STRUCTURE – GENERAL REQUIREMENTS FOR PARKING AREAS, DRIVEWAYS, SIDEWALKS, PLAYGROUNDS, AND GOLF CART AND BICYCLE PATHS

- 14.1. Contractor will provide asphalt pavement for bicycle, running and golf cart paths, playgrounds and sidewalks.
- 14.2. Grades will be established by Contract, in cooperation with the CDCR, and grade stakes will be set with due allowance for existing improvements, proper drainage, adjoining property rights and aesthetics.
- 14.3. Contractor will remove debris, vegetation, or other perishable materials from job site, except for trees or shrubs designated by the CDCR for preservation.
- 14.4. Contractor will be responsible for securing any necessary permits for waste removal, dust control and for providing a dumpster, if needed.
- 14.5. Contractor will remove any material in a soft spot and replace with a material that will be equal to or better than best subgrade material on-site. If subgrade does not meet standards, repairs will be with ABC.
- 14.6. If the Contractor cannot use a self-propelled paver or spread box in areas of 1,000 square yards or less, work will be done by hand.
- 14.7. Contractor will rigidly support wood or steel forms to assure correct grade and cross section.
- 14.8. Contractor will perform handwork to avoid segregation of mix.
- 14.9. Contractor will remove any lumps that do not break down.
- 14.10. Contractor will start rolling as soon as hot mix material can be compacted without displacement.
- 14.11. Contractor will continue the rolling until thoroughly compacted and all rolling marks have disappeared.
- 14.12. For areas too small for a roller, Contractor will use vibrating plate compactor or hand tamper to achieve compaction.
- 14.13. Contractor will place paving mixture directly on prepared subgrade to give smooth, durable and economical surfaces that resist high unit loads.
- 14.14. Contractor will prepare subgrade for overlying pavement for good drainage for pavement durability. Surface of pavement will be blended to contour of existing ground so that surface drainage runs over it, or away from it, in its natural course. Water will not be allowed to stand at pavement's edge.
- 14.15. Contractor will use a minimum of 2" thickness of asphalt pavement for bicycle paths or sidewalks, or as specified for project.
- 14.16. Recommended width for a bicycle path is 8". In remote areas or in difficult terrain, consideration will also be given to building pavement wide enough for necessary maintenance, ambulances or rescue-squad vehicles to use during an emergency.
- 14.17. Recommended width for a golf cart pavement is minimum width of 5", or as specified for project.
- 14.18. To minimize golf shoe spike wear, pavement will be designed and constructed in two layers: a minimum of 4" of hot mix asphalt pavement is recommended. Three inches of full-depth asphalt base will be placed first and topped by a 1" to 1.5" asphalt surface course.



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- 14.19. If requested, sidewalks may be given surface color or texture by application of special materials. A minimum of 4” of hot mix asphalt pavement will be used, a 3” full-depth asphalt base will be placed first and topped with a 1” to 1 ½” asphalt surface course.

15. PAVEMENT TEXTURING REQUIREMENTS

- 15.1. Contractor may provide street pavement texturing.
- 15.2. Contractor will use an authorized applicator to prepare drawings and documents for all projects.
- 15.3. Contractor will imprint pattern according to specifications of patent holding company.
- 15.4. Contractor will keep the asphalt that has been laid hot according to the manufacturer’s instructions and weather conditions prior to imprinting.
- 15.5. Basic imprint patterns offered will include, but not be limited to: offset brick, soldier course, herringbone and a decorative arch.
- 15.6. Contractor will use an acrylic water-based color coating fortified with epoxy to increase adhesion and abrasion resistance to surface, according to the manufacturer’s instructions.
- 15.7. Contractor will use spray application for color coat and then back roll.
- 15.8. Contractor may apply color coat using rollers and/or brushes in smaller areas.
- 15.9. Contractor will apply color coating at a minimum rate of 100 square feet per gallon.
- 15.10. Contractor will apply color compound and hardener comprised of integrally colored cement with a modified acrylic latex surface over imprinted asphalt.
- 15.11. Contractor will apply coating at a minimum coverage rate to 75 square feet per gallon.
- 15.12. Contractor may apply a high performance additive to the hot mix asphalt to achieve level of stability required for imprinting.

16. ASPHALT CONCRETE FABRIC OVERLAY REQUIREMENTS

- 16.1. Contractor will use paving fabrics that are non-woven, needle-punched, polypropylene, staple fiber geo-textile specifically engineered for asphalt overlays. These fabrics will be installed between the old and new asphalt layers in flexible pavement systems, as recommended by manufacturer.
- 16.2. Contractor will clean the pavement of dust, dirt, vegetation and moisture. Potholes will be filled prior to application of fabric.
- 16.3. Contractor will use the amount of PG 64-16 or approved binder AC-20 required to saturate paving fabric, per manufacturer’s recommended gallons per square yard. Actual rate of application depends upon relative porosity of old pavement, ambient temperature and AC-20. A distributor truck will apply specific tack rate in a smooth and uniform manner at a temperature below 300 degrees Fahrenheit. It will be sprayed approximately 6” wider than width of paving fabric.
- 16.4. Contractor will place geo-textile fabrics with calendared side up when tack coat is still warm and tacky to assure best bond and absorption possible. Installation can be done manually or with fabric installation units. Pressures will be light and vehicle will be driven straight as possible to assure a smooth and wrinkle-free installation. A lightweight metal tube will be inserted inside the fabric roll to prevent bowing of roll. Hand broom all small wrinkles. Large wrinkles will be carefully slit with a knife and overlapped in the direction of paving. Additional tack will be applied between the layers.
- 16.5. Contractor will apply a minimum asphalt thickness of 1-1/2” of hot mix asphalt on top of paving fabric.



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17. PARKING LOT AND ROADWAY STRIPING REQUIREMENTS

- 17.1. Traffic striping paint for use on asphalt concrete roadways, parking lots, driveways, and playgrounds will use products for each applicable application for painting of centerlines and edge lines, crosswalks, stop lines, parking spaces, traffic aisles, and traffic control marks.
- 17.2. Contractor will use paint that conforms to requirements of current federal specifications for traffic fine paints and specifications for the highway division of ADOT.
- 17.3. Contractor will prepare areas to be painted to be free of dirt, loose paint, oil, grease and will be dry.
- 17.4. Contractor will thoroughly mix traffic paint prior to application and it will be homogeneous, free of contaminants and of a consistency suitable for intended use.
- 17.5. Contractor will apply paint to a 15mm wet thickness in 4" width striping and will include two separate coats or per member's specifications. All striping will be protected from traffic until thoroughly dry.
- 17.6. **Group D only:**
- 17.6.1. Contractor will verify the use of Type III or Type IV per AC 150/5370-10H, P-620 virgin glass beads prior to any work is performed. Paint will be installed with beads in the intermix and on the surface utilizing a mechanical bead dispensing device and meet the specifications found in AC 150/5370-10H, Item P-620. The contractor will ensure the retro-reflectivity complies with standards in accordance with ASTM D7585 and ASTM E1710. The use of "hand spreading" beads is prohibited from all work.
- 17.6.2. Painting shall be done in a neat and workman like manner. Unless otherwise specified paint shall be applied per manufacturer suggestions with limits of spray method. Markings on pavement shall be applied using spray on method only. The operator shall be thoroughly experienced. Runs, sags, thin areas in the paint coat, or skips and holidays shall be considered as evidence the work is unsatisfactory and the Contractor may be required to apply the remainder of the paint by brush. A water trap acceptable to the Engineer shall be furnished and installed on all equipment used in spray painting. Mechanical mixers shall be used to mix the paint. The paint shall be mixed a sufficient length of time, prior to use, to thoroughly mix the pigment and vehicle together. Paint shall be kept thoroughly mixed while being applied. Type of material applied directly unpainted pavements will be TT-P-1952E-Type III waterborne paint at 12 to 22 mils in dry thickness. If repainting of existing markings is performed the material will be TT-P-1952E- Type II. All type II paints will utilize type III glass beads and type III paint will use Type IV beads.
- Concrete (PCCP)
 - AC
 - Paint/Thermoplastic
- 17.6.3. Colors:
- IAW AC 150/5340-1M, colors IAW FED STD 595. White 37925, RED 31136, Yellow 33538 or 33655, Black 37038

18. PREVENTATIVE MAINTENANCE REQUIREMENTS

- 18.1. Contractor may provide preventative maintenance (early detection and repair of minor defects, before major corrective action is necessary), as requested.



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- 18.2. When these inspections reveal minor defects, Contractor will provide recommendation to prevent deterioration into pavement failures requiring major maintenance expenditures.
- 18.3. Contractor will use full-depth asphalt patching to repair all types of localized pavement distress that extend below roadway surface by removing failed area and replacing it with fresh asphalt mix.
- 18.4. Contractor will use hot mix asphalt that is a controlled hot mixture of well-graded, high quality aggregate and asphalt cement.
- 18.5. Contractor will use materials mixed at a high temperature and will be laid and compacted before mix temperature drops to 185 degrees Fahrenheit.
- 18.6. When using a pavement saw or pneumatic hammer, Contractor will cut outline of the patch, extending at least 1' outside of the distressed area. Outline will be square or rectangular with two sides at right angles to direction of traffic.
- 18.7. Contractor will excavate as much pavement, and subgrade, as necessary to reach firm support to make a foundation as strong or stronger than that of original roadway.
- 18.8. Contractor will ensure that the faces of the excavation are straight and vertical.
- 18.9. Contractor will trim and compact subgrade.
- 18.10. Contractor will apply a tack coat to vertical faces of the excavation.
- 18.11. Contractor will backfill with asphalt mixture.
- 18.12. Contractor will shovel mixture directly from truck into prepared excavation.
- 18.13. Contractor will place shovel-full against edges of hole first (rather than in center and then raking to edges). Hot mix asphalt will be placed in deep lifts providing greater heat retentions of thicker layers to facilitate compaction.
- 18.14. Contractor will spread product to avoid segregation of mixture and avoid pulling material from center of patch to edges. If more material is needed at edge, it will be deposited there and excess raked away.
- 18.15. Contractor will use an amount of mixture sufficient to ensure that after compaction, patch surface will not be below that of adjacent pavement.
- 18.16. Contractor will check vertical alignment and smoothness of patch with a straight edge or string line.

19. OPTIONAL SERVICES

- 19.1. Contractor may provide ultra-thin micro seal bonded wear course using aggregated materials in accordance with AASHTO and ASTM specifications. Asphalt binder will be in accordance with MAG and PAG specification.
- 19.2. Contractor may provide polymer modified asphalt chip seal in accordance with AASHTO specifications and industry standards.

20. LABOR AND FEES

- 20.1. Labor rates and materials will be priced per the contract showing hourly labor rate, number of hours, materials cost, and total per line item.
- 20.2. Any repair or replacement costs must be pre-approved in writing by the CDCR.
- 20.3. Labor charges will be based on time spent at the City location. Portal to portal charges will not be accepted. Labor time will be from check-in to check-out at the project location.
- 20.4. Travel time, mileage, Contractor's equipment, trip charges, truck supplies, overhead, environmental disposal, service fees, fuel surcharge, mobilization, demobilization and any other incidental fees or charges not outlined in the contract will not be permitted under this contract.
- 20.5. Rental equipment, permits, and other ancillary costs will be detailed in the Contractor's



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quote and approved by the CDCR. Receipts of payment need to be submitted for reimbursement as a pass-through cost to the City of Phoenix with no markup added to the Contractor's invoice to the City of Phoenix.

21. RESPONSE TIMES

- 21.1. Regular business hours: Telephone calls and/or emails requesting service will be responded to by the Contractor within twelve (12) hours after the original call or email. Contractor must be onsite within four (4) business days of the original call or email request for service.
- 21.2. Emergency hours or Emergency after hours: If the request is designated as an Emergency by the City Representative, the Contractor will respond by telephone or email within three (3) hours of the original call or email and the Contractor must be onsite within twenty-four (24) hours of the original call or email request for service.



SECTION VI – SUBMITTALS

CITY OF PHOENIX

SECTION VI – SUBMITTALS

SUBMITTAL SECTION

1. COPIES:

Please submit one original and one electronic copy (USB drive) of the Submittal Section and all other required documentation.

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

2. COSTS AND PAYMENTS:

2.1 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.

3. ALL OR NONE BID BY GROUP PRICE SCHEDULE:

See SECTION VI – SUBMITTAL SPREADSHEET

4. CONTRACTOR LICENSING REQUIREMENTS:

Offeror shall comply with all statutes and rules of the State of Arizona and the Registrar of Contractors. In accordance with A.R.S. §. 32-1151, and unless otherwise exempted by A.R.S. § 32-1121, Offeror shall have the correct class of license as required by the Registrar of Contractors for the work specified, at the time of offer submission. Offeror certifies possession of the following license:

Licensed Contractor’s Name _____

Class _____

License Number _____

Expiration Date _____

Company Name _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

5. EMERGENCY 24-HOUR SERVICE CONTACT:

Name _____

Telephone Number _____

Alternate Contact _____

Telephone Number _____

6. YEARS IN BUSINESS AND REFERENCES:

Contractor certifies that they have provided complete Asphalt and Striping Services listed in this solicitation for a period of a minimum of five years.

Contractor shall furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations for which the Contractor is currently furnishing or has furnished, completed service for Asphalt Services.

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name _____



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 a solicitation.

Arizona Sales Tax No. _____

Use Tax No. for Out-of State Suppliers _____

City of Phoenix Sales Tax No. _____

Arizona Corporation Commission File No. _____

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

Enter City's Registration System ID Number Located at City's eProcurement website (see SECTION I – INSTRUCTIONS - CITY'S REGISTRATION)	
--	--

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

Authorized Signature

Date

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

Printed Name and Title
(Member, Manager, President)

Address _____

City, State and Zip Code _____

Telephone Number _____

Company's Fax Number _____

Company's Toll Free # _____

Email Address _____



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
Ginger Spencer, Public Works Department

City Clerk

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

Company Name_____

Page 55 of 66

Solicitation Due Date: September 23, 2020 at 1 pm

Solicitation No. 21-FMD-018



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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
-------	----	------	--------

2. Contract Information

Solicitation # or Name:

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

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

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

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

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

7. Disclosure of Conflict of Interest:

Company Name _____

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Solicitation Due Date: September 23, 2020 at 1 pm

Solicitation No. 21-FMD-018



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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.

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

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

Company Name _____

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Solicitation Due Date: September 23, 2020 at 1 pm

Solicitation No. 21-FMD-018



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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.

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

OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete. Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

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

Company Name _____



**EXHIBIT A
SUPPLEMENTAL TERMS AND CONDITIONS
TO ALL AIRPORT AGREEMENTS**

1. Definitions

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

2. Federal Aviation Administration (FAA) Grant Assurances

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

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

- A. Compliance with Regulations.** Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as provided in Section 7 below), as it may be amended from time to time, which is incorporated herein by reference and made a part of this Contract.
- B. Nondiscrimination.** With regard to the work performed by it under this Contract, Contractor will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate, directly or indirectly, in the discrimination prohibited by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, including employment practices when this Contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of Contractor's obligations under this Contract and the Title VI List of Pertinent Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- D. Information and Reports.** The Contractor will provide all information and reports required by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, and



SECTION VII – EXHIBITS

CITY OF PHOENIX

directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Phoenix or the FAA to be pertinent to ascertain compliance with the Title VI List of Pertinent Nondiscrimination Acts and Authorities and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor will so certify to the City of Phoenix or the FAA, as appropriate, and will set forth what efforts Contractor has made to obtain the information.

E. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City of Phoenix will impose such Contract sanctions as it or the FAA may determine to be appropriate, including:

- (i) Withholding payments to Contractor under this Contract until Contractor complies, and/or
- (ii) Cancelling, terminating, or suspending this Contract, in whole or in part.

F. Covenant Running with the Land. Contractor for itself and its heirs, personal representatives, successors, and assigns, as a part of the consideration for this Contract, hereby covenants and agrees that, in the event facilities are constructed, maintained, or otherwise operated on the property described in this Contract for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Contractor will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities. In the event of a breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to terminate this Contract and to enter, re-enter and repossess the property and facilities thereon and hold the same as if this Contract had never been made or issued.

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

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

A. Sponsor Contracts. Contractor agrees to comply with pertinent statutes, executive orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance. This



SECTION VII – EXHIBITS

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provision binds Contractor and subtier contractors from the bid solicitation period through the completion of this Contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

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

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

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

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

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

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



SECTION VII – EXHIBITS

CITY OF PHOENIX

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

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

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

2.6 Miscellaneous

- A. Contractor agrees that it will undertake an affirmative action plan in conformance with 14 C.F.R. Part 152, Subpart E (Nondiscrimination in Airport Aid Program), to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment, contracting, or leasing activities covered in 14 C.F.R. Part 152, Subpart E. Contractor assures that no person will be excluded on such grounds from participating in or receiving the services or benefits of any program or activity covered by Subpart E. Contractor further agrees that it will require its covered suborganizations to provide assurances to Contractor that they similarly will undertake affirmative action programs and that they will require like assurances from their suborganizations as required by 14 C.F.R. Part 152, Subpart E.
- B. City of Phoenix reserves the right to further develop, improve, repair, and alter the Airport and all roadways, parking areas, terminal facilities, landing areas, and taxiways, as it may reasonably see fit, free from any and all liability to Contractor for loss of business or damages of any nature whatsoever to Contractor occasioned during the making of such improvements, repairs, alterations, and additions.
- C. The City of Phoenix reserves the right, but is not obligated to Contractor, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard.
- D. Contractor acknowledges that this Contract is subordinate to any existing or future agreement between the City of Phoenix and the United States concerning the development, operation, or maintenance of the Airport. If the FAA or its successors require modifications or changes in the Contract as a condition to obtaining funds for improvements at the Airport or as a requirement of any prior grants, Contractor hereby consents to any and all such modifications and changes as may be reasonably required and agrees that it will adopt any such modifications and changes as part of this Contract.



SECTION VII – EXHIBITS

CITY OF PHOENIX

- E. This Contract is subordinate to the reserved right of the City of Phoenix and its successors and assigns to occupy and use for the benefit of the public the airspace above the Premises for the right of flight for the passage of aircraft. This public right of flight includes the right to cause in the airspace any noise inherent in the operation of any aircraft through the airspace or in landing at, taking off from, or operating at an Airport.
- F. Contractor agrees to comply with the notification and review requirements, as required by 14 C.F.R. Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace), if future construction of a structure is planned for the Premises or a planned modification of a structure on the Premises. Contractor shall submit the required FAA Form 7460-1 (Notice of Proposed Construction or Alteration) and provide documentation showing compliance with the federal requirements. After the FAA has completed the aeronautical study, Contractor shall provide to the City of Phoenix the FAA determination letter on proposed construction and any impact to air navigation. Contractor covenants for itself and its successors and assigns that it will not erect or permit the erection of any structure or permit the growth of any tree on the Premises above the mean sea level elevation for (1) Phoenix Sky Harbor International Airport, 1,134 feet, (2) Phoenix Goodyear Airport, 968 feet, and (3) Phoenix Deer Valley Airport, 1,476 feet. As a remedy for the breach of the covenant, the City of Phoenix reserves the right to enter the Premises and remove the offending structure or cut the offending tree at Contractor’s expense.
- G. Contractor, by accepting this Contract, covenants for itself and its successors and assigns, that no use will be made of the Premises that might in any manner interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard to air navigation. As a remedy for the breach of the covenant, the City of Phoenix reserves the right to enter the Premises and abate the interference at Contractor’s expense.
- H. Contractor agrees that nothing in this Contract may be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e) (No exclusive rights at certain facilities).
- I. This Contract is subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation, and taking-over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.
- J. If this Contract involves construction, Contractor shall carry out the project in accordance with FAA airport design, construction, and equipment standards and specifications current on the date of project approval.
- K. Contractor is encouraged to use fuel and energy conservation practices.

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

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

4. Conflict of Interest



SECTION VII – EXHIBITS

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

5. Legal Worker Requirements

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

- A. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214(A).
- B. A breach of warranty under paragraph A above shall be deemed a material breach of this Contract and is subject to penalties up to and including termination of the Agreement.
- C. The City of Phoenix retains the legal right to inspect the papers of Contractor or its subcontractor employees who work on this Contract to ensure that Contractor or its subcontractors are complying with the warranty under paragraph A above.

6. City of Phoenix Equal Employment Opportunity Requirement

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

“Any supplier/lessee in performing under this contract shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The supplier and/or lessee shall ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.”

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

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

“The supplier/lessee further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because



SECTION VII – EXHIBITS

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of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.”

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

6.3 Monitoring. The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this Section 3 as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

7. Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

- A.** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) (prohibits discrimination on the basis of race, color, or national origin).
- B.** 49 C.F.R. Part 21 (Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964).
- C.** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §§ 4601, *et seq.*) (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal aid programs and projects).
- D.** Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq.*), as amended (prohibits discrimination on the basis of disability), and 49 C.F.R. Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance).
- E.** The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101, *et seq.*) (prohibits discrimination on the basis of age). Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex).
- F.** The Civil Rights Restoration Act of 1987 (Public Law 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973 by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, sub-recipients, and contractors, whether the programs or activities are federally funded or not).
- G.** Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*), which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities as implemented by U.S. Department of Transportation regulations at 49 C.F.R. Part 37 (Transportation Services for Individual with Disabilities) and Part 38 (Americans with Disabilities Act Accessibility Specification for Transportation Vehicles).



SECTION VII – EXHIBITS

CITY OF PHOENIX

- H.** Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- I.** Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) and resulting agency guidance and national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).
- J.** Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681, et seq.), as amended, which prohibits you from discriminating because of sex in education programs or activities.