



**CITY OF PHOENIX
LAW DEPARTMENT, CRIMINAL DIVISION**

**REQUEST FOR PROPOSAL
RFP 21-LAW-002**

SHOPLIFTING/THEFT DIVERSION PROGRAM

Issue Date: April 21, 2021

PROCUREMENT OFFICER
Lynn Coyer
Diversion Programs Administrator
300 W. Washington, 8th Floor
Phoenix, AZ 85003
(602) 261-8188
rfpdiversion@phoenix.gov

This RFP does not commit the City to award any agreement.
All dates subject to change.

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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 the Solicitation Disclosure form.
- ☐ All Submittals are included.
- ☐ Reviewed and verified prices offered.
- ☐ Checked price 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 the 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 of Phoenix (“City”) must receive offers no later than the date and time indicated in the Schedule of Events or addenda.



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Section I – Instructions

1. DESCRIPTION – STATEMENT OF NEED:

1.1. The City of Phoenix invites sealed offers for **the Shoplifting/Theft Diversion Program** for a **three-year** period commencing on or about **July 1, 2021**, 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. Two (2) one-year renewal options will be exercised at the sole discretion of the City.

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	DATE (All times are local Phoenix time)
Solicitation Issue Date	April 21, 2021
Pre-Proposal Conference	10:00 am Tuesday, April 27, 2021
Pre-Proposal Conference Location	Via WebEx by appointment only Contact: rfpdiversion@phoenix.gov Schedule by Monday, April 26, 2021, 10:00am
Written Inquiries Due Date	Noon Thursday, April 29, 2021



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Offer Due Date LATE BIDS WILL NOT BE ACCEPTED	2:00 pm Wednesday, May 12, 2021
Offer Submittal Location	<p>Access to the Phoenix Municipal Courthouse is limited.</p> <p>Please email Lynn Coyer at rfpdiversion@phoenix.gov no later than 2 business days prior to the Offer Due Date and time to schedule an appointment to submit an offer in person.</p> <p>Location for in-person submittal is: City of Phoenix Prosecutor's Office 300 W. Washington St., 8th floor Phoenix, AZ 85003</p> <p>Electronic submittal – email to: rfpdiversion@phoenix.gov</p> <p>Due to the COVID-19 pandemic, Bid Submittals may be submitted electronically and must be received on or before the due date and time indicated above.</p> <p><i>If being submitted electronically, paper copies are not required.</i></p>

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

4. PREPARATION OF OFFER:

- 4.1. All forms provided in the Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.
- 4.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original blue ink by the authorized person signing the offer. No offer will be altered,



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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 the due date and time. Offerors are strongly encouraged to:
- 4.4.1. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 4.4.2. Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
 - 4.4.3. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
 - 4.4.4. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
 - 4.4.5. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
 - 4.4.6. Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products offered. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
 - 4.4.7. Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.

- 5. OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:** Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer to schedule a time to



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pick up a copy during regular business hours at the City of Phoenix Law Department, Prosecutor's Office, 300 W. Washington Ave, 8th Floor, Phoenix, AZ. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their offer.

6. **EXCEPTIONS:** Offeror must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Offerors must conform to all the requirements specified in the solicitation. The City encourages Offerors to send inquiries to the procurement officer rather than including exceptions in their Offer as explained in Inquiries.

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

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

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

8. **ADDENDA:** The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal, or the Offer may be considered non-responsive.

9. **BUSINESS IN ARIZONA:** The City will not enter contracts with Offerors (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of Arizona by the Arizona Corporation Commission, unless the offeror asserts a statutory exception prior to entering a contract with the City.

10. **LICENSES:** If required by law for the operation of the business or work related to this Offer/solicitation, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

11. **CERTIFICATION:** By signature in the Submittal section of the Offer page, Offeror certifies:
- The submission of the offer did not involve collusion or other anti-competitive practices.



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- 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 the 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 submitted in one of the following ways:

- 12.1.** Submitted in a sealed envelope and the following information should be noted on the outside of the envelope:

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

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

- 12.2.** Submitted electronically by email to rfpdiversion@phoenix.gov and the following information should be noted in the email:

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

Due to file size limitations for electronic transmission (for sending or receiving), offers sent by email may need to be sent in parts with multiple emails. It is the responsibility of the Offeror to ensure that the offer (including all parts if sent in multiple emails) is timely and to confirm that there are no technical reasons that any offer submitted electronically may be delayed. The date and time on the email(s) as received/stamped by the City's inbox will provide proof of submission and verification whether the offer was received on or prior to the exact time and date indicated in the Schedule of Events.

Any original documents (such as bonds, guaranties, powers of attorney), if required by the solicitation, must be separately delivered to and received by



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the City on or prior to the exact time and date indicated in the Schedule of Events, with a clear indication of the offer for which it is attributed.

- 12.3.** If available for this solicitation, submitted electronically by file transfer site. For instructions to upload a digital offer, Offeror must first indicate its intent to apply (and submit a completed “intent to apply” form, if provided in the solicitation) by email and the following information should be noted in the email:

- Offeror’s Name
- Offeror’s Address (as shown on the Certification Page)
- Solicitation Number
- Solicitation Title
- Offer Opening Date

It is the responsibility of the Offeror to ensure that the offer is timely and to confirm that there are no technical reasons that any offer submitted electronically may be delayed. The date and time on the upload as received/stamped by the City’s file transfer site will provide proof of submission and verification whether the offer was received on or prior to the exact time and date indicated in the Schedule of Events.

Any original documents (such as bonds, guaranties, powers of attorney), if required by the solicitation, must be separately delivered to and received by the City on or prior to the exact time and date indicated in the Schedule of Events, with a clear indication of the offer for which it is attributed.

- 13. WITHDRAWAL OF OFFER:** At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative. If Offeror withdraws the offer electronically by email to rfdiversion@phoenix.gov, the request to withdraw must be in the form of a letter attached to the email that includes either an image of the duly authorized representative’s signature or an electronic signature from a verifiable source, such as Adobe Sign, DocuSign or a similar verifiable software program.
- 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



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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 evaluated the offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors. By signing and submitting its offer, each Offeror agrees that this posting of the award recommendation to the City's website effectively serves as the Offeror's receipt of that notice of award recommendation. The City has no obligation to provide any further notification to unsuccessful Offerors.

15. PRE-AWARD QUALIFICATIONS:

15.1 Offeror must have a minimum of two-years experience providing counseling and rehabilitation services, the same as, or similar to, the program proposed. Similar programs may include those that provide other types of rehabilitation services. All persons who will provide services under the program must be fully qualified and accredited to carry out their duties. (This information must be provided in the Submittal Section, Years in Business and References of this solicitation.)

15.2 Upon notification of an award the Offeror will have 30 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

16. AWARD OF CONTRACT:

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

16.2 Factors that may be considered by the City include:

- Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,
- Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
- Safety record, including complaints and investigations; and,



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- Vendor history of complaints and termination for convenience or cause, litigation or lawsuits.

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

16.4 A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Deputy Finance Director or Department Director. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

17. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST: The City reserves the right to disqualify any Offeror based on any real or apparent conflict of interest that is disclosed by the offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before any agency or body, including but not limited to, the City Council of the City of Phoenix or any court.

18. SOLICITATION TRANSPARENCY POLICY:

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

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

18.3. Offerors may discuss their offer or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are



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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 Offeror, the City Manager and City Manager's Office will continue the past practice of exerting no undue influence on the process.
- 18.5.** This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 18.6.** "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy 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.
- 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.



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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



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file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked “confidential.” The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

21. **LATE OFFERS:** Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being 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. **EVALUATION OF COMPETITIVE SEALED OFFERS:** The City will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.
25. **DETERMINING RESPONSIVENESS AND RESPONSIBILITY:**
 - 25.1. Offers will be reviewed for documentation of qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.
 - 25.2. Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine



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responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.

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

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

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

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

26. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE: During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings and which Offers are within the Competitive Range, when appropriate.



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27. OFFERS NOT WITHIN THE COMPETITIVE RANGE: The City may notify Offerors of Offers that the City determined are not in the Competitive Range.

28. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:

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

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

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

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



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29. BEST AND FINAL OFFERS (BAFO):

- 29.1.** A BAFO is an option available for negotiations. Each Offeror in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Offer and make one BAFO.
- 29.2.** If an Offeror's BAFO modifies its initial Offer, the modifications must be identified in the BAFO. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.
- 29.3.** The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.
- 29.4.** The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

**SECTION II – STANDARD TERMS AND CONDITIONS****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.



SECTION II – STANDARD TERMS AND CONDITIONS

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“Employer”	Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
“Offer”	Means a response from a supplier, contractor or service provider to a solicitation request that, if awarded, binds the supplier, contractor or service provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.
“Offeror”	Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
“Solicitation”	Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed 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.



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2.2. CONTRACT ORDER OF PRECEDENCE: In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- 2.2.1. Special terms and conditions
- 2.2.2. Standard terms and conditions
- 2.2.3. Amendments
- 2.2.4. Statement or scope of work
- 2.2.5. Specifications
- 2.2.6. Attachments
- 2.2.7. Exhibits
- 2.2.8. Instructions to Contractors
- 2.2.9. Other documents referenced or included in the Solicitation

2.3. ORGANIZATION – EMPLOYMENT DISCLAIMER: The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and will save and hold the City harmless with respect thereto.

2.4. SEVERABILITY: The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

2.5. NON-WAIVER OF LIABILITY: The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.

2.6. PAROL EVIDENCE: This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and



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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.



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

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

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



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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.

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

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

3.4. LEGAL WORKER REQUIREMENTS: The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:

3.4.1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.

3.4.2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.

3.4.3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

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

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

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

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.



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The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

- 3.6. COMPLIANCE WITH LAWS:** Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor's acts.

- 3.7. LAWFUL PRESENCE REQUIREMENT:** Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies

- 3.8. CONTINUATION DURING DISPUTES:** Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

- 3.9. EMERGENCY PURCHASES:** The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.



4. (INTENTIONALLY OMITTED)

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



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negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

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

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



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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. RIGHT OF ASSURANCE:** 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.



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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 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:



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



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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.



SECTION III – SPECIAL TERMS AND CONDITIONS

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1. **PRICE:** All prices submitted shall be firm and fixed for the initial three year(s) of the contract. Thereafter, price increases will be considered annually provided the adjustments are submitted in writing with 60 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc. Price decrease requests do not require supporting documentation and are allowed at any time during the contract term.

The City will be the sole judge in determining the allowable increase amount. Price increases agreed to by any staff other than the 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.

2. **METHOD OF PAYMENT:** Program participants are responsible for payment to Contractor. The City is not responsible for payment or failure of payment of program participants.
3. **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 identity has changed, the Procurement Officer must be notified immediately. Failure to do so may result in non-payment of invoices and contract termination.
4. **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.
5. **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



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interest of the City. This suspension will be without compensation to the Contractor, other than to adjust the contract completion/delivery requirements.

6. **POST AWARD CONFERENCE:** A post-award conference may 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.
7. **PERFORMANCE INTERFERENCE:** Contractor shall notify the City's department contact immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.

Department Contact: Diversion Programs Administrator

Phone: 602-261-8188

8. **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 just 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.

9. **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.
10. **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.
11. **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,



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will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

- 12. 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.

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

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

- 15. 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.

- 15.1. 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.



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15.2. 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.

15.3. Materiality of Background Screening Requirements; Indemnity: The background screening requirements are material to City's entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

15.4. 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.

16. BACKGROUND SCREENING – STANDARD RISK:

The current risk level and background screening required is **STANDARD RISK LEVEL**.

A standard risk background screening will be performed when the Contract Worker's work assignment will:

- require a badge or key for access to City facilities; or
- allow any access to sensitive, confidential records, personal identifying information or restricted City information; or
- allow unescorted access to City facilities during normal and non-business hours.

16.1. Requirements: The background screening for this standard risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the



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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.

16.2. Contractor Certification; City Approval of Background Screening: Unless otherwise provided for in the Scope, Contractor will be responsible for:

- determining whether Contract Worker(s) are disqualified from performing work for the City for standard risk level background checks; and,
- for reviewing the results of the background check every five years; 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.
- 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. Also, by executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all background screening requirements for the standard risk background screening, and verified legal worker status, as required.

17. CONFIDENTIALITY AND DATA SECURITY: All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Contractor in connection with this Agreement is confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Contractor shall not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager or his/her designee.

Personal identifying information, financial account information, protected health information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Contractor must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, handheld devices,



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networking devices, removable storage devices, or other electronic media, as well as data in transit, such as during email or file transfer.

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

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

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

Contractor agrees that the City may assess or test the security of any applications, web services, or computerized systems created or provided by the Contractor that process, store, or transmit City information. If the City finds vulnerabilities that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS) in these applications, web services, or computerized systems, the Contractor agrees to remediate the vulnerability at no cost to the City and within an agreed-upon timeframe not to exceed 90 days. To clarify, the Contractor must remediate found vulnerabilities in computerized systems they provide; Contractor is **not** liable for remediating any vulnerability found in the City's network or computing infrastructure used to support the applications, web services, or systems created or provided by the Contractor.

Contractor agrees to abide by all current applicable legal and industry data security and privacy requirements. These include, but are not limited to, Arizona Revised Statutes §44-7501 — Notification of breach of security system; Arizona Revised Statutes §44-7601 — Discarding and disposing of records containing personal



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identifying information; Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules; Health Information Technology for Economic and Clinical Health (HITECH) Act, and Payment Card Industry Data Security Standards.

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

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

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

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

- 18. 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:



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- 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.

**SECTION IV – INSURANCE AND INDEMNIFICATION****1. DEFENSE AND INDEMNIFICATION CLAUSE:**

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses or other amount arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely as a result of Indemnitee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to any work performed by Indemnitor or Indemnitor’s Agents for the City of Phoenix. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

2. CONTRACTOR’S INSURANCE:

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

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



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

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

2.1.1. Commercial General Liability – Occurrence Form

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

- The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

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
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- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.



SECTION IV – INSURANCE AND INDEMNIFICATION

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- The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

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.

2.1.4. Professional Liability (Errors and Omissions Liability)

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

- The policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those services as defined in the Scope of Services of this Contract.
- Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

2.2. NOTICE OF CANCELLATION: For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to **Diversion Programs Administrator, PO Box 4500, Phoenix, AZ 85030-4500, Fax Number 602-256-3509.**

2.3. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required



SECTION IV – INSURANCE AND INDEMNIFICATION

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minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

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

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

All certificates required by this Contract must be sent directly to **Diversion Programs Administrator, PO Box 4500, Phoenix, AZ 85030-4500**. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

- 2.5. SUBCONTRACTORS:** Contractor's certificates shall include all subcontractors as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontractors have valid and collectable insurance. At any time throughout the life of the contract, the City of Phoenix reserves the right to require proof from the Contractor that its subcontractors have insurance coverage. All subcontractors providing services included under this Contract's Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Contractor may, on behalf of its subcontractors, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontractors with respect to this Contract.

- 2.6 APPROVAL:** Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed contract amendment



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

SECTION V – SCOPE

- 1. OVERVIEW:** The City of Phoenix (the “City”) through the City Prosecutor’s Office (the “Prosecutor’s Office”) issues this request for proposals (the “RFP”) to qualified proposers to develop and operate for persons charged (the “Defendant”) with a shoplifting or theft-related offense and who meet the City’s criteria to participate in this diversion program (the “Shoplifting/Theft Diversion Program” (SDP) also, the “Program”. The Program seeks to move a Defendant out of the criminal justice system and into a program that combines a Defendant’s comprehensive personal assessment with education or treatment, in addition to referrals, to help the Defendant avoid criminal behavior after the completion of the program. The Program also helps to reduce the number of cases in the criminal justice system. The Diversion Unit of the Prosecutor’s Office administers the Program (the “Prosecutor’s Office”).

A person eligible for the Program must accept and enter into the City’s pre-conviction diversion plea agreement (Exhibit “A”), admit guilt, and agree to comply with the terms of the Program. If a Defendant fails to complete the Program as the plea agreement requires, the court will impose the sentence dictated in the plea agreement. If a Defendant completes the Program and all conditions, the City may dismiss the eligible charge(s) without prejudice.

The existing contract will expire on June 30, 2021. The City issues this RFP to select a qualified contractor to operate the Program beginning on or about July 1, 2021.

2. CITY’S RIGHTS AND RESPONSIBILITIES:

- 2.1. ELIGIBILITY CRITERIA:** Determine the eligibility criteria for the program, including updating, amending and supplementing the eligibility criteria over the term of any contract resulting from this RFP.
- 2.2. APPROVAL OF PROGRAM:** Meet with the Contractor to review and discuss the impact of the additions or modifications to the Program, not previously approved by the City, and if appropriate, in the City’s discretion, approve any Program changes in writing prior to implementation. Any changes to the established Program must have prior approval of the Diversion Programs Administrator.
- 2.3. COORDINATE:** Coordinate the operation of the program by the successful Offeror with the Phoenix Municipal Court.
- 2.4. NOTICE OF CHANGE IN LAW:** Provide the successful Offeror with reasonable prior notice of any changes in Arizona statutes and City ordinances, rules and procedures that affect program, either operationally or substantively.



SECTION V – SCOPE OF WORK

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- 2.5. CHANGE IN FORMS/PROCEDURES:** Add and modify program forms and procedures provided that, the City of Phoenix Diversion Programs Administrator reviews and discusses any such changes with the successful Offeror.
- 2.6. APPROVAL OF FORMS:** Review and approve forms used to document Defendants' participation in the program.
- 2.7. FORMS DOCUMENTATION OUTCOMES:** Provide samples of all documents necessary for the successful Offeror to document the success or failure of a Defendant who participates in the program and to close the file.
- 2.8. REVIEW OF INFORMATION:** Review Contractor's defendant case files, personnel files, financial records, and to evaluate attendance and monitor required meetings and classes monitoring, to the extent City determines is necessary. (Any information gathered during the monitoring shall become the property of the City.)
- 3. OBLIGATIONS OF SUCCESSFUL OFFEROR:** The successful Offeror will be required to develop and operate a program which complies with the requirements of the City, the City Code, and other applicable laws, rules and regulations. The Program must satisfy the following requirements and the proposal must address all the elements in Attachments A and B.
- 3.1. SERVICES:** Provide complete services to each Defendant referred to the program for diversion and pre-diversion. Program assessor will determine which services will be assigned at time of screening/intake.
- 3.2. OFFICE REQUIRED:** Maintain an office location readily accessible to Defendants located within 10 miles of the Phoenix Municipal Court Building, 300 West Washington Street, Phoenix, Arizona, 85003 by the effective date of the contract for conducting intake appointments, exchanging documents with the Prosecutor's Office, and assisting Defendants. The office hours must be open for services from 8:00 a.m. to 5:00 p.m. on all regular workdays scheduled by the City of Phoenix.
- 3.3. INDIVIDUALIZED CASE PLAN:** Establish, implement, and oversee an individualized case plan for each Defendant who requires services instead of, or in addition to, the regular program. This includes case management of services provided by other agencies.
- 3.4. SERVICES:** Provide an educational class(es) and/or counseling. At the time of screening/intake, the assessor will determine which services will be assigned.



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

- 3.5. OUT OF MARICOPA COUNTY/STATE OF ARIZONA DEFENDANTS:** Provide a case management plan and monitoring for all necessary services for Defendants who live outside of Maricopa County or the State of Arizona and are unable to complete services with the Offeror.
- 3.6. RESOURCE INFORMATION AND REFERRALS:** Provide resource information and appropriate community referrals to the Defendants based on each Defendant's needs determined at screening/intake and throughout the program.
- 3.7. COUNSELING AVAILABILITY:** Conduct counseling services on weekday evenings and Saturdays. Based on demand, must have sessions available Monday through Friday between 8:00 a.m. and 5:00 p.m.
- 3.8. CONFIRMATION OF ELIGIBILITY:** If not ordered by the Phoenix Municipal Court, confirm eligibility of the Defendant prior to enrollment in accordance with criteria established by the Prosecutor's Office.
- 3.9. PHONE SERVICES:** Phones must be answered during regular City of Phoenix business hours, Monday through Friday between 8:00 am and 5:00 pm. Establish a method of receiving messages from Defendants during business and non-business hours.
- 3.10. BILINGUAL REQUIREMENT:** Employ bilingual staff who are fluent in English and Spanish and ensure that all services, program forms, and materials are provided in English and Spanish.
- 3.11. INTERPRETERS:** Provide interpreters for all non-English speaking Defendants at no additional cost to the Defendants for all services.
- 3.12. AMERICANS WITH DISABILITIES ACT:** Comply with the Americans with Disabilities Act.
- 3.13. AVAILABILITY FOR COURT:** Have staff accessible by phone on stand-by status, in lieu of a court ordered subpoena, to appear and testify in Municipal Court about the status of Defendants in the Program as needed during regular City of Phoenix business hours.
- 3.14. CAP ON SESSION PARTICIPANTS:** Ensure educational group session do not exceed a maximum of 30 Defendants per session and if offered, counseling group sessions do not exceed a maximum of 15 Defendants per group session.
- 3.15. CONFIDENTIALITY POLICY:** Develop and maintain a confidentiality policy including the duty to warn requirements as required by law.



SECTION V – SCOPE OF WORK

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- 3.16. PARTICIPATION IN CITY'S PROGRAM EVALUATION:** The Prosecutor's Office may conduct a program evaluation of the Offeror's program throughout the term of the contract to ensure compliance and performance. Participate in any evaluation of the Offeror's program conducted by the Prosecutor's Office in any format provided.
- 3.17. SCREENING/INTAKE:** Schedule Defendants for screening/intake and services, and ensure Defendants are active in the program in the timeline identified by the City.
- 3.18. OUTREACH:** Establish a written policy to contact and document the case to reflect all efforts to "reach out" to Defendants who do not contact the program within the five day period described in the plea agreement.
- 3.19. CLOSING CASES:** Establish a process to close cases when Defendants fail to complete screening intake within 30 days of signing the plea agreement.
- 3.20. INACTIVE CASES:** Establish a process to close cases for Defendants who become inactive in the Program (e.g. stop participating after intake). Cases should be closed within two weeks after following established outreach efforts, but no later than three weeks prior to the next scheduled court date.
- 3.21. COMPLETION CLOSURES:** For Defendants who complete the Program, establish a process to close the case within two business weeks of each Defendant's completion date or before their scheduled court date, whichever comes first.
- 3.22. NO PROGRAM RE-ENTRY:** Enforce the City policy prohibiting a Defendant from re-entering the Program after the Defendant's case has been closed, unless the re-entry is approved in writing by the Prosecutor's Office.
- 3.23. CLOSURE FORMS:** Submit closure forms in the format provided by the Prosecutor's Office. To be filed with the Phoenix Municipal Court (typically a motion or status report).
- 3.24. REDUCED FEE SCHEDULE:** Implement a reduced fee schedule, approved by the Prosecutor's Office, for indigent Defendants.
- 3.25. RESTITUTION:** Arrange payment of restitution from the Defendant upon notification from the Diversion Unit. Notify Defendant as to the amount of restitution owed and collect all restitution payments. Offeror is required to remit the restitution funds to a City account and cut remittance checks in the victim(s) name for distribution. Frequency of restitution remittal to victim will be upon



SECTION V – SCOPE OF WORK

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- weekly processing, at a minimum, by the Offeror of restitution payments made. The Prosecutor's Office will mail the restitution payments to the victim.
- 3.26. RESTITUTION ACCOUNT:** Utilize a City bank account solely established for restitution transactions, to deposit payments and cut checks to victims.
- 3.27. COMMUNITY RESOURCES AND REFERRALS:** Develop and maintain professional and community affiliations and referral resources necessary to conduct the program.
- 3.28. COMPUTER SYSTEM:** Maintain a computer system with sufficient number of computers and capacity to allow program staff to access the system.
- 3.29. COURIER SERVICE:** Provide courier service to deliver documents required by the Prosecutor's Office, as needed.
- 3.30. FILE MAINTENANCE AND RETENTION:** Maintain and retain files, hard copy files or electronic files that reflect each Defendant's attendance at, participation, and completion, if any, of the program. If only electronic files are kept, hard copies of files must be provided when requested by the Prosecutor's Office. These documents must be accessible to the Prosecutor's Office at all times.
- 3.31. AVAILABILITY OF DEFENDANT'S STATUS INFORMATION:** Upon request, provide a Defendant's status report in the program at no cost to the Defendant, the Prosecutor's Office, and the Phoenix Municipal Court.
- 3.32. DEFENDANT RECORDS:** When the Agreement is terminated or expires, all defendant records shall become the property of the City and, upon request, forwarded to the City.
- 3.33. OPERATIONS MANUAL:** Complete and submit an operations manual within 30 calendar days following the effective date of any contract awarded pursuant to this RFP. A current operations manual must be submitted at the beginning of each fiscal year. The operations manual must be revised during the term of the contract to ensure it remains up to date and reflects any and all changes in procedures.
- 3.34. MONTHLY REPORT:** Complete a monthly report for the preceding month due to the Prosecutor's Office by the 10th of each month. The following program data will be included:
- 3.34.1. The names and total number of Defendants referred to the program. Cases should be identified as either pre-plea diversion or post-plea diversion.



SECTION V – SCOPE OF WORK

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- 3.34.2. The names and total number of Defendants who completed the program. Cases should be identified as either pre-plea diversion or post-plea diversion.
- 3.34.3. The names and total number of Defendants who did not complete the program. Cases should be identified as either pre-plea diversion or post-plea diversion.
- 3.34.4. The names and total number of Defendants who paid a full program fee.
- 3.34.5. The names and total number of Defendants who paid a reduced program fee.
- 3.34.6. The names and total number of Defendants who completed the program with another agency/out of county/state.
- 3.34.7. The amount of fees remitted to the City.
- 3.34.8. The number of new cases requiring restitution payments.
- 3.34.9. The names of Defendants and amount of restitution collected per Defendant.
- 3.34.10. The names of Defendants and the amount of restitution disbursed to associated victim(s).
- 3.34.11. The names of any new subcontractors and group facilitators performing services under the Agreement.
- 3.35. COLLECTION:** The contractor accepts full responsibility for the collection of fees and restitution from Defendants.
- 3.36. REMITTANCE:** Remit to the City monthly a one-time fee of \$30.00 for each Defendant who completes the program and pays the full program fee. Full program fee means Defendant paid the Offeror's program fees with no reduction in fees for services. Remittance must be submitted to the City within 30-days of finalizing the monthly report.
- 3.37. PARTICIPANT EVALUATION:** A monthly summary of the evaluation data, including participants written responses and comments, must be submitted by the last day of the month for the preceding month.



SECTION V – SCOPE OF WORK

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- 3.38. INITIAL SIX-MONTH REPORT:** Following the first six months after the commencement of any contract resulting from this RFP, prepare and deliver an initial report to the Prosecutor's Office within 30 calendar days after the end of such six month period, which report will describe the demographics of the Defendants in the program, the services provided, the program successes and failures using measurable criteria, and recommendations for program improvements based on performance measures identified in the contract resulting from this RFP, together with a detailed cumulative expense and revenue report for the program. (Access to raw data must be granted to the Prosecutor's Office).
- 3.39. SEMI-ANNUAL REPORT:** Complete a semi-annual report due to the Prosecutor's Office on January 30 and July 30, which will identify the demographics and the reasons why Defendants were closed non-compliant.
- 3.40. ANNUAL PROGRAM REPORT:** Complete an annual report at the end of each fiscal year of the City during the term of any contract resulting from this RFP. The report will describe the demographics of the Defendants in the program, the services provided, the program successes and failures using measurable criteria, recommendations for program improvements based on performance measures identified in the contract resulting from this RFP or new literature or research available, together with a detailed cumulative expense and revenue report for the program that is in form and substance acceptable to the City. The report is due to the Prosecutor's Office 30 calendar days following the end of each such fiscal year.
- 3.41. SERVICE GUARANTEE:** All services required by the terms of this RFP shall include the complete and normal processing of all Defendants referred during the entire term of the Agreement. Defendants may be ordered during the entire term of the Agreement to complete the program, and the Offeror will complete all services to all Defendants ordered to the program during the term of the contract and past termination of the contract if the Defendant's program is not yet complete.
- 3.42. MAINTAIN SERVICES:** Contractor agrees to maintain services and shall not reduce any services without the written authorization of the City.
- 3.43. ADVERTISING:** Refrain from advertising or publishing news releases concerning the Agreement or the Program without the prior written consent of the Diversion Programs Administrator.

4. REQUIRED NOTIFICATIONS:

- 4.1.** Upon request, information on initial and on-going training of staff and group facilitators.



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

4.2. Notify the Diversion Programs Administrator in writing immediately upon receipt of any claim by a defendant alleging harm or mistreatment of any nature by anyone related to the Program. In these circumstances, the Contractor shall provide the defendant with the name and telephone number of the Diversion Programs Administrator.

4.3. Contractor will Contractor will notify the Diversion Programs Administrator immediately in writing upon (a) any change in the Contractor's management personnel performing the services provided pursuant to this Agreement; (b) any occurrence or conditions that interfere with Contractor's ability to fully perform the services required under this Agreement; and (c) any occurrence that results in, or could result in, injury or damages to persons receiving services or providing services under the Agreement.

5. EVALUATION CRITERIA: In accordance with the Phoenix City Code Section 43-14, the Competitive Sealed Proposal award shall be made to the responsible Offeror whose proposal is determined in writing to be the most highly rated, taking into consideration evaluation criteria listed below. The evaluation factors are listed in the relative order of importance and more details are provided in this Scope of Work.

Method of Approach	0-600 points
Qualifications and Experience	0-200 points
Program Evaluation and Measures	0-75 points
Price	0-125 points
TOTAL POINTS AVAILABLE	1,000 points



SECTION VI – SUBMITTALS

CITY OF PHOENIX

SECTION VI – SUBMITTALS

1. COPIES/SUBMISSION OPTIONS:

Submission in Person by Appointment (hard copy): Per the requirements in Section I, Instructions, Item 3, Schedule of Events table and Item 12, Submission of Offer, please submit one (1) original, five (5) copies, and one (1) electronic copy (portable drive or CD) of the Submittal Section and all other required documentation.

Submission via Email (no hard copy): Offers may be emailed, as a PDF document, per the requirements in Section I, Instructions, Item 12, Submission of Offer.

Please submit only the Submittal Section and all other required documentation, 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. OFFER SUBMITTAL FORMAT:

The written offer should be:

- Typewritten for ease of evaluation;
- Submitted in a binder, preferably using double-sided copying (hard copy submittal);
- Signed by an authorized representative of the Offeror;
- Typed signatures are not acceptable on any of the required documents for submittal;
- Submitted with contact information for the individual(s) authorized to negotiate with the City;
- Submitted with a table of contents and tabbed per the following major sections:

Tab 1	Method of Approach
Tab 2	Qualifications and Experience
Tab 3	Program Evaluation and Measures
Tab 4	Organization Information
Tab 5	Submittal Section documentation
Tab 6	Signed Addenda, if any



SECTION VI – SUBMITTALS

CITY OF PHOENIX

- 3. COSTS AND FEES (PRICE):** Offerors shall submit prices for the Shoplifting/Theft Diversion Program. This Costs and Fees Section represents the City of Phoenix's official request for a price quotation and **MUST** be completed by the Offeror. The pricing stated herein must be a firm fee. Unless otherwise and specifically provided, the price is all-inclusive and must include all necessary costs including, but not limited to, materials, labor, travel, copying costs, incidentals, equipment, space, taxes, profit, insurance, and any other items necessary to effectively conduct and complete the Scope of Work.

Cost is a factor in awarding the contract, however, only those proposals that meet all the mandatory criteria in the RFP will be given consideration. The contract will not be awarded solely on the basis of price. After a composite technical score for each proposer has been established, the pricing score will be considered and additional points will be added to the technical score to determine the RFP total score.

- 3.1. PROGRAM FEES:** Complete the table as it applies to your program. Do not leave blanks; if it does not apply indicate "not applicable", identify and explain any other fees that apply to your program by adding to the table.

	Fees
Cost of Screening/Intake (separate if different amounts)	
Cost per Educational session(s)	
Cost per Counseling session(s)	
Any Reschedule fee(s)	
Any Late fee(s)	
Out of County/State Monitoring fee	
Identify and explain any other fees by adding to the table	

(remainder of page intentionally left blank)



SECTION VI – SUBMITTALS

CITY OF PHOENIX

- 4. YEARS IN BUSINESS AND REFERENCES:** Contractor certifies that they have provided educational/counseling services, the same as, or similar to, the program listed in this solicitation for a period of two 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, educational/counseling services, the same as, or similar to, the program proposed. **The Offeror may not use the City of Phoenix as a reference.**

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

OFFER

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

Printed Name and Title
(LLC, Inc., Sole Proprietor)

(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

Director or delegate, Department
Bob Smith
City Prosecutor

Attest:

_____ this ____ day of _____ 2020
City Clerk

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



SECTION VI – SUBMITTALS

CITY OF PHOENIX

CONFLICT OF INTEREST AND SOLICATION DISCLOSURE TRANSPARENCY FORM

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

1. Name of person submitting this disclosure form.

First	MI	Last	Suffix
-------	----	------	--------

2. Contract Information

Solicitation # or Name:

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

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

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

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



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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

7. Disclosure of Conflict of Interest:

A. City Code Section 43-34

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

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

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

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

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



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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:

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**.



SECTION VI – SUBMITTALS

CITY OF PHOENIX

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



SECTION VII – EXHIBITS

CITY OF PHOENIX

EXHIBIT A – FORM OF CURRENT CITY PLEA AGREEMENT

IN THE MUNICIPAL COURT OF THE CITY OF PHOENIX
COUNTY OF MARICOPA, STATE OF ARIZONA

STATE OF ARIZONA,)	
)	
Plaintiff,)	
)	SHOPLIFTING/THEFT DIVERSION
vs.)	PROGRAM PLEA AGREEMENT
)	
_____)	No(s):
Defendant.)	
_____)	

The State of Arizona and the defendant agree, by the terms and conditions of this document, to the following disposition of this case:

- I. That the defendant pleads guilty/no contest to:
- II. That the defendant will receive the following sentence:
 - _____ months probation;
 - \$_____ fine plus surcharge = \$_____;
 - _____ days in jail. Pay jail costs as imposed by the Court, pursuant to A.R.S. § 13-804.01(B);
 - _____
- III. That the following charges are dismissed or, if not yet filed, shall not be brought against the defendant:
- IV. That departmental report # _____ incorporated by reference in the Court's record for determining a factual basis.
- V. That this agreement serves to amend the complaint(s) to charge the offense(s) to which the defendant pleads.
- VI. That this Plea Agreement does not preclude any other remedies authorized by law including forfeiture and civil racketeering remedies and recovery costs of emergency response. The defendant understands that, pursuant to A.R.S. §§ 13-807, 13-2314(H) and 13-4310(C), the defendant is precluded from denying in any civil proceeding the essential allegations for the criminal offense of which he/she is convicted. The defendant further understands that a guilty plea, no contest plea, or a plea pursuant to *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970), all result in a conviction.
- VII. The Court shall suspend the entry of judgment and imposition of sentence for a maximum of 150 days on the following conditions:
 - The defendant is assigned to the Shoplifting/Theft Diversion Program (hereinafter "Program") and will contact the Program within 5 business days at PROVIDER PHONE NUMBER or PROVIDER ADDRESS to register for the Program. Program registration must be completed within 30 days from signing this Plea Agreement. Payment plans are available upon request.
 - The defendant agrees to pay all intake and Program fees, including any restitution, and any additional services fees before completing the Program. Upon full payment, one 8-hour class must be scheduled and completed.
 - Defendant shall attend and participate in the Program's mandatory educational class and complete any additional treatment required by the Program. Defendant shall fully cooperate with PROVIDER NAME,



SECTION VII – EXHIBITS

CITY OF PHOENIX

- staff (hereinafter “Provider”) and attend all scheduled services as directed by the Provider. If unable to attend a scheduled class, the defendant must contact the Provider staff prior to the class.
- The defendant shall immediately provide, in writing, to the Provider all changes of address and telephone numbers.
 - The defendant agrees to appear at any Court setting scheduled during completion of the Program, and that if he/she fails to successfully complete the Program, he/she will appear at all future court settings.
 - The defendant is required to pay restitution, pursuant to A.R.S. § 13-603, to persons who have suffered economic loss as a result of the criminal conduct to which the defendant is pleading guilty. If there is restitution to be paid, the defendant will make full restitution to the victim. The Provider staff will explain how arrangements will be made to pay restitution. Restitution must be paid in full before the Program is completed and the case dismissed. If the Court does not order the defendant to pay restitution at this time, the Court may at a later time order restitution as required by law, in addition to the sentence imposed by this plea agreement, subject to the right to a hearing to determine the proper amount of restitution. The victim may request restitution until the time the case is dismissed. The victim has the right to refuse any restitution arrangements or findings. The victim may appear before the Court and oppose the dismissal of the charge(s).
 - Defendant agrees to comply with any terms of release that have been imposed by the Court.
 - Providing false information or failing to comply with any condition will result in judgment being entered and the sentence imposed.
- VIII. The defendant understands that to be eligible for the Shoplifting/Theft Diversion Program, the crime cannot have included theft of an item on a person; the current charge(s) cannot involve more than two charges; this case cannot involve aggravating circumstances; the defendant cannot have incidents of any theft related felony, burglary, a violent felony, and no more than two misdemeanor theft incidents; and the current offense cannot involve: Assault, Theft of Government Property or Monies by a Government Employee or Other in a Fiduciary Like Position, Resisting Arrest, Providing False Information to a Police Officer, Possession of a Concealed Weapon, or Contributing to the Delinquency/Dependency of a Minor.
- IX. The defendant certifies that he/she is not currently enrolled on another charge(s), has not previously enrolled on this charge(s), nor had a case previously dismissed by the City of Phoenix Shoplifting/Theft Diversion Program.
- X. That if, as a part of this Plea Agreement, the defendant is placed on probation by the Court, the terms and conditions of probation are subject to being modified at any time during the period of probation, and if the defendant violates any of the written terms and conditions, probation may be revoked.
- XI. The defendant agrees that the Prosecutor’s Office may release any information in its file to the Provider. The defendant further authorizes the Provider, Phoenix Municipal Court, Phoenix Prosecutor’s Office, and the identified victim to exchange all information about his/her legal status, case information, demographics, Program assignment and status, attendance, treatment progress, and discharge status for 10 years from today’s date.
- XII. The defendant understands that by entering into this Agreement the defendant is pleading guilty to the charge(s) and if the Program is not successfully completed, a judgment of guilt will be entered and the sentence will be imposed without any further opportunity to plead not guilty or otherwise defend against the charge(s). The defendant waives his/her right to receive a copy of any Motion to Set Aside the Plea Agreement and Dismiss the Charge(s). The defendant further waives his/her constitutional right to a speedy trial for delays which occur while he/she is either enrolled in the Program or until judgment is entered and sentence imposed.
- XIII. If the defendant successfully completes the Program, the Court shall not enter judgment nor execute sentence, but shall set aside this Plea Agreement and dismiss the charge(s) without prejudice.
- XIV. If this Plea Agreement is rejected, withdrawn or reversed on appeal, the original charge(s) will be automatically reinstated and set for trial.



SECTION VII – EXHIBITS

CITY OF PHOENIX

- XV. The defendant agrees that the City Prosecutor's Officer may terminate the defendant's eligibility at any time and move the Court to enter judgment and impose sentence.

DEFENDANT: I have read or have had read to me the provisions of this agreement and I understand them. I have discussed the case and my constitutional rights with my attorney, if I have one representing me. I understand that by pleading guilty/no contest, I will be giving up the following constitutional rights: to plead not guilty; to have a trial; to confront, cross-examine, and compel the attendance of witnesses; to remain silent which is my right against self incrimination; to direct appeal of my conviction or sentence - review may be accomplished only by filing a petition for post-conviction relief pursuant to 17 A.R.S. *Rules of Crim. Proc.*, Rule 33, and, if denied, a petition for review. I further understand that I have a right to be represented by an attorney prior to and during this proceeding, and that if I cannot afford to hire an attorney, I can ask the judge to determine if I am entitled to one free of charge.

I agree to enter my plea as indicated above on the terms and conditions set forth in this document.

Date _____ Defendant _____

Address: (PLEASE PRINT) _____

City: _____ Zip: _____ Phone No(s): _____

DEFENSE ATTORNEY: I have discussed this case and the terms and conditions set forth in this document with the defendant in detail and explained his/her constitutional rights and all possible defenses. I believe that the defendant is entering into the agreement voluntarily, knowingly and intelligently.


Date _____ Defense Counsel _____

PROSECUTOR: I agree and concur with the plea and disposition set forth in this agreement.

Date _____ Prosecutor _____

INTERPRETER: I have accurately interpreted the terms of this Plea Agreement for the defendant and ascertained that the defendant understands the language of interpretation.

Date _____ Interpreter _____

	ATTACHMENTS	CITY OF PHOENIX
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ATTACHMENT A – PROPOSED PROGRAM DESCRIPTION AND INFORMATION

PROGRAM STATISTICS AND INFORMATION: The statistics provided in this RFP reflect the actual number of Defendants who signed a plea agreement or who completed a program during the listed periods. The City provides these statistics to help an Offeror estimate program services that may be required. Be advised, the actual number of Defendants who sign a plea agreement, participate in a program, and complete the terms may vary from these statistics. By submitting a proposal, each Offeror expressly agrees to provide program services for the actual number of Defendants who initially agree to participate in the Program during the term of any agreement resulting from this RFP.

The Prosecutor's Office established the Shoplifting/Theft Diversion Program in 1988.

Statistics:

Fiscal Year	Number of Defendants who signed plea agreements	Number of Defendants who reenrolled	Number of Defendants who completed the Program	Number of Defendants who completed and paid reduced fees
2017/2018	1,321	395	899	11
2018/2019	1,220	326	817	20
2019/2020	839	230	703	77

Approximate number of education classes/groups held per month: 3 (2 in person and 1 telehealth)

Occasionally, individual counseling is provided if the group setting is inappropriate. In fiscal year 2019/20, no Defendants received individual counseling.

The following information is based on fiscal year 2019/2020:

Demographic Approximations:

- 35% male
- 65% female
- 35% Caucasian
- 34% Hispanic
- 20% African American
- 5% Native American
- 30% high school graduate or GED (no college)
- 26% some college
- 23% did not complete high school
- 38% between 18 and 29 years old
- 25% between 30 and 39 years old

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- 34% employed full-time
- 15% employed part-time
- 30% unemployed

Other Data:

- 87 cases involved restitution
- \$17,940 was remitted to the City of Phoenix by current provider for all compliant Defendants paying a full fee.
- Non-English/Non-Spanish language required for program services – none.

Fees:

- \$35 for intake assessment
- \$165 for 8-hour education class
- \$22.50 per hour up to \$165 total for counseling session
- \$45 fee for individual counseling session in lieu of group session
- \$55 for referred-out client: out of state, includes reporting

1. METHOD OF APPROACH

1.1. LOCATION, SERVICE HOURS, AND OTHER PROGRAM DATA: Provide information on the following:

- 1.1.1. Address or proposed location of the program office.
- 1.1.2. If applicable, additional branch offices or other entities that will perform or assist in performing the proposed program.
- 1.1.3. Indicate length of screening/intake.
- 1.1.4. Indicate times, weekday and/or weekend, when **screenings/intakes** will be scheduled. If none for that day, please indicate NONE under hours.
- 1.1.5. Indicate times, weekday and/or weekend, when **sessions** will be scheduled. If none for that day, please indicate NONE under hours.
 - 1.1.5.1 Educational sessions
 - 1.1.5.2 Counseling sessions

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Example:

Days	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Hours							

1.1.7. Indicate the anticipated number of days from initial contact to the screening/intake.

1.1.8. Indicate the anticipated number of days from the screening/intake to:

1.1.8.1 the first education session.

1.1.8.2 the first counseling session.

1.1.9. Is group structure open or closed? (Open to new participants or Closed, no new participants allowed after first session)

1.1.10. Estimated average length of program per participant (weeks).

1.1.11. Any other requirements?

1.2. PROPOSED PROGRAM:

1.2.1. PROGRAM INFORMATION - Provide the following information:

1.2.1.1. A one-page abstract of your program that includes no more than two paragraphs of what makes your proposed program distinctive in your opinion.

1.2.1.2. Summarize the research, literature, and philosophy that form the basis of the proposed program (Limit total 4 pages).

Ensure the summary includes:

- The causes of shoplifting/theft behavior your program specifically addresses.
- Describe the program methods that will stop shoplifting and theft behavior. Include information on specific skills and different ways of behaving that will be learned or reinforced.

1.2.2. PROGRAM SERVICES - Provide the following information:

1.2.2.1. SCREENING/INTAKE AND ASSESSMENT PROCEDURES:

1. Describe the screening/intake process and procedure.
 - Include the length of the appointment and what information will be gathered at this appointment.



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- Describe how the screening/intake process will be provided for Defendants who live out of county or state.
 - Explain if there is a difference between screening and intake and what each entail.
2. Describe how the results of the initial assessment will be used to determine the need for each of the following:
 - Assignment to education
 - Assignment to counseling
 - Defendants needing an individualized plan instead of, or in addition to, the education or counseling group sessions
 3. Attach an intake form and any other forms used during the intake/screening process to explain the program and Defendant's responsibility to complete the program.

1.2.2.2. EDUCATIONAL GROUP SESSION(S):

1. Describe each educational session.
 - Indicate the length of time allotted for each topic and/or task.
 - Indicate if task is done as group or as individual.
 - Describe your methodology of education.
2. Describe how you will provide case plans and case management for all necessary services for those Defendants recommended for education session(s) who live out of county or state.

1.2.2.3. COUNSELING GROUP SESSION(S):

1. Describe each counseling session.
 - Indicate the counseling modality used.
 - Indicate the length of time allotted for each topic and/or task and is task individual or group.
 - Identify the type of individual most likely to be assigned to counseling rather than to education.
2. Describe how you will provide case plans and case management for all necessary services for those Defendants recommended for counseling who live out of county or state.

1.2.3. GENERAL PROGRAM INQUIRIES:

- 1.2.3.1. Explain program implementation timeline.
- 1.2.3.2. Describe your program out-reach efforts for Defendants who fail to contact the program within five (5) days.
- 1.2.3.3. Describe your program response and services to Defendants who are not making progress in the program.



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- 1.2.3.4. Describe any type of individualized service that would be required for Defendants. Include services for those who will not benefit from a regular program or may be disruptive in a group setting.
- 1.2.3.5. Explain fee collection procedures.
- 1.2.3.6. Describe philosophy of reducing fees.
- 1.2.3.7. Describe the criteria and special arraignments (e.g., sliding fee scale, payment plan) for indigent Defendants.
- 1.2.3.8. Describe Defendants ability to use AHCCCS.
- 1.2.3.9. Describe Defendants ability to use personal insurance.
- 1.2.3.10. Describe procedures used for collecting restitution from Defendants.
- 1.2.3.11. Describe testing methodology used for the proposed program.
- 1.2.3.12. Explain how services will be provided to English and mono-lingual Spanish speaking Defendants.
- 1.2.3.13. Explain how services will be provided to Defendants who are hearing impaired, Defendants with disabilities, and Defendants who speak neither English nor Spanish.
- 1.2.3.14. Describe specific community agencies you would use as referral sources and the services they would provide.
- 1.2.3.15. Explain your working relationships with the agencies noted in 1.2.3.9. above.
- 1.2.3.16. Explain the rights of Defendants that participate in the program.
- 1.2.3.17. Explain how the facilities used to provide services comply with the Americans with Disabilities Act (ADA).
- 1.2.3.18. If applicable, provide the following information on subcontracted services:
 - Types of services
 - Signed, preliminary agreements
 - Plans assuring coordination and monitoring
 - Frequency of payment
- 1.2.3.19. List your professional and community affiliations in regard to alcohol education, alcohol treatment, and mental health.

1.3. COMPUTERIZED INFORMATION SYSTEM: Provide information regarding your computerized information system. Indicate the following information:

- 1.3.1. Type of software used to monitor the status of cases.
- 1.3.2. Security (include local and network procedures).
- 1.3.3. Backup and recovery procedures.
- 1.3.4. Are case notes electronic/computerized? If yes, how?



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CITY OF PHOENIX

- 1.3.5. Describe your agency's web-based case management system that would allow the Prosecutor's Office Diversion staff to access a Defendant's program status as needed. If you do not have one, what are your plans for implementation? NOTE: The Prosecutor's Office identifies first by Defendant's compliant number, secondly by name, and lastly by other identifiers.


2. OFFEROR'S QUALIFICATIONS AND EXPERIENCE

2.1. QUALIFICATIONS:

- 2.1.1. Attach an organizational chart for the program. Include the program's relationship to the organization of which it is a subsidiary or by which it is sponsored.
- 2.1.2. Attach job descriptions of key personnel.
- 2.1.3. If known, list the names and qualifications (education, training, and experience) of staff who will perform key program functions.
- 2.1.4. Language and cultural competency.
- 2.1.4.1. Explain how you will ensure all services are culturally appropriate.
- 2.1.4.2. Provide information on your bilingual staffing (English/Spanish). Please include the number of bilingual (English and Spanish) staff you have.
- 2.1.5. Facilitators, intake/screening staff, and case managers.
- 2.1.5.1. Describe required qualifications.
- 2.1.5.2. Describe training and supervision.
- 2.1.6. If any, explain your professional staff turn-over, including full-time and part-time group facilitators, during the past two years.

2.2. EXPERIENCE:

- 2.2.1. Describe how Offeror's experience satisfies the minimum requirement of two years experience providing educational/counseling services, the same as, or similar to, the program proposed, include any additional experience that is comparable to the services required in the Scope of Work Section of the RFP over a period not to exceed three additional years (e.g. up to five years of experience).
- 2.2.2. If available, describe your compliance/completion rate for related services, and attach statistics to document the rate(s). Include data on all people referred, including those that failed to make contact. All data should be from the past five years and include:
- Time frame
 - Number referred
 - Number closed non-compliant
 - Number closed compliant


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- 2.2.3. Describe any areas where your organization lacks the expertise or administrative ability to implement the proposed program. Describe your plan to develop the necessary expertise and administration to implement the proposed program.
- 2.2.4. List information on a minimum of three (3) organizations, including government organizations, for which the Offeror is currently furnishing or has furnished services, the same as, or similar to, the program proposed, in the past five years (please verify information provided is correct). Include the following information for each organization:
 - Organization
 - Address
 - Contact name
 - Contact's title
 - Contact's phone number
 - Contact's e-mail
 - Brief description of services including the number of clients served per program or service (do not compile number of all programs/services).
 - Dates of service
- 2.2.5. Explain any complaints that resulted in a substantiated finding by a licensing organization or court within the past 5 years.
- 2.2.6. List all contracts that were not renewed or were terminated before the expiration of the contract. Please identify the agency that the contract was with, the type of services/program that was provided and the length of time that the services/program was provided.
- 2.2.7. Submit any other information that documents other skills or experience relating to the requirements of this RFP, which you believe may be relevant including brochures and descriptions.
- 2.2.8. Have **three (3)** organizations submit the Proposer's Performance Evaluation, Attachment C, (reference checks) as indicated on the form. These organizations should be those for whom you provide a similar type of service. Individuals/organizations who may receive direct or indirect pecuniary gain from the proposed program or the organization submitting the proposal should not be included. **DO NOT** submit to City of Phoenix employees or officials for completion.

3. PROGRAM EVALUATION AND MEASURES

3.1. PERFORMANCE MEASURES: (measurable objectives and client outcomes):

- 3.1.1. Identify and describe the performance measures that will be used to evaluate the program, such as any test administered. These measures should be results oriented, specific, and measurable.

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3.1.2. Explain the validity of any empirical support for any tests that would be administered. They should measure the topics covered in the curriculum of the program and skills provided in the intervention you are proposing.

3.2. RESPONDING TO DEFENDANTS COMPLAINTS: Describe the procedure for responding to Defendant complaints about the program.

3.3. PARTICIPANT PROGRAM EVALUATION: An SDP evaluation provided by or developed in collaboration with the Prosecutor's Office to be given to each Defendant upon completing program.

3.4. ON-GOING PROGRAM IMPROVEMENTS: Explain how you will use the information above (3.1.-3.4.) to make on-going program improvements.

3.5. EVIDENCE BASED INFORMATION: Provide information that your proposed program is evidenced based and documentation of its success.

3.6. DOCUMENTATION OF CLIENT PROGRESS: Describe the process for documenting client progress and engagement through case notes, and for electronically sharing these case notes with the City of Phoenix Prosecutor's Office.

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ATTACHMENT B – ORGANIZATION INFORMATION

1. ORGANIZATION STRUCTURE

Please check the type of organization

- ☐ Non-Profit 501(c)(3) Year Incorporated _____
- ☐ Other Non-Profit _____
- ☐ Government Entity
- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ Corporation
- ☐ Other _____

If the Offeror is a corporation or partnership, attach a copy of the Articles of Incorporation or partnership agreement.

2. ORGANIZATION INTEGRITY

- 1.1 Has your organization had any contracts terminated for default of non-performance?
- 1.2 Has your organization ever been debarred from contracting?
- 1.3 Has your organization (corporation, sole proprietorship, or individual provider), its principals, or members ever filed for bankruptcy or are there any suits, judgments, tax deficiencies, or claims pending against your organization? If yes, please explain.
- 1.4 Is your organization or any of its principals currently involved in any litigation, threatened litigation, investigation, reorganization, receivership, filing, strike, audit corporation acquisition, unpaid judgments or other action that could have an adverse impact on your ability to provide the required RFP needs? If yes, please explain.
- 1.5 Is your organization or any of its principals currently involved in any administrative proceedings of judicial or quasi-judicial nature, related to, arising from, or connected with the conduct of organization business, client relationships, professional status, or licensure of any nature? If yes, please explain.
- 1.6 Are there any scenarios worth mentioning related to organization conduct and compliance but do not fall within 2.1 – 2.5? If yes, please explain.



SECTION VIII – ATTACHMENTS

CITY OF PHOENIX

ATTACHMENT C – PROPOSER’S PERFORMANCE EVALUATION



City of Phoenix
OFFICE OF THE CITY PROSECUTOR

PROPOSER’S PERFORMANCE EVALUATION

As a party providing an evaluation of the Proposer’s performance for a Request for Proposals/Solicitation process (RFP), please submit the completed form by fax or e-mail as indicated below by **2:00 pm, Wednesday, May 12, 2021**. For your convenience, this form is available as an attachment to the Shoplifting/Theft Diversion Program RFP at <https://www.phoenix.gov/solicitations> for distribution to and completion by references.

Thank you for your time and cooperation.

Diversion Programs Administrator

E-mail: rpddiversion@phoenix.gov

Fax number: (602) 256-3509

Phone number: (602) 261-8188

The City of Phoenix Prosecutor’s Office will use the information from this form to evaluate proposers competing for contract awards. **This completed form will become public record and upon request, will be released to the proposer or any other entity.**

1. Identification of party providing information:

1.1. Your Agency/Organization: _____

1.2. Name and Title: _____

1.3. Phone Number: _____

1.4. Signature: _____

1.5. Date: _____

2. Contractor Information:

(Agency/Organization who has a contract with your organization)



SECTION VIII – ATTACHMENTS

CITY OF PHOENIX

Please provide information/response based on services provided to your organization.

- 2.1. Contractor: _____
- 2.2. Contract Number(s) and terms of Contract(s) held by Contractor (current and expired)
- 2.3. A brief detailed description of the scope of services for Contracts indicated above, including the type and size.
- 2.4. Information on how above services were implemented. Were implementation timelines met?
____ Yes ____ No If no, please explain.
- 2.5. Did the Contractor meet the requirements of the contract?
____ Yes ____ No If no, please explain.
- 2.6. Did the Contractor's ability to provide requested services meet the contractual requirements?
____ Yes ____ No If no, please explain.
- 2.7. Did the Contractor's experience and qualifications of staff meet the contractual requirements?
____ Yes ____ No If no, please explain.
- 2.8. Were there any deficiencies or monetary sanctions applied during the term of the Contract?
____ Yes ____ No If no, please explain.
- 2.8.1. Ramification and/or Sanctions applied to each deficiency noted and date reported?
- 2.8.2. Did Contractor's ability to resolve any and all deficiencies during the term of the Contract meet your organization's satisfaction?
__ Yes ____ No If no, please explain.
- 2.9. Any additional comments:

#2,251,848
LMC 04/20/21