



SOLICITATION ADDENDUM

Solicitation Number: RFP-2021-WES-328 (KFT) Addendum #1
Page 1 of 6

Solicitation Due Date: May 6, 2021, 2:00 p.m. Local AZ Time

CITY OF PHOENIX
Water Services Department
Procurement Division
200 W. Washington St., 9th Floor
Phoenix, AZ 85003

ENVIRONMENTAL LABORATORY SERVICES

Please make the following changes to the above referenced solicitation.

The following applies and will supersede any conflicting provisions, instructions or attachments in the RFP.

ADD:

SECTION III – SPECIAL TERMS AND CONDITIONS, ITEM 23 – BACKGROUND SCREENING

add the following:

23.5 Variances and Exemptions: Contract Workers who fall under the following areas may be considered exempt from this policy:

- Federal Homeland Defense Bureau.
- Transportation Security Administration.
- Federal Aviation Administration.
- Department of Public Safety (DPS) Administration – presenting a current Level One Department of Public Safety fingerprint card.
- Arizona or other State Bars.
- Other background checks performed within the last three to five years may be approved if they fit all required criteria herein, at the City's discretion.

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

- Contract Worker gains access to a City facility(s) without the proper badge or key;
- Contract Worker uses a badge or key of another to gain access to a City facility;
- Contract Worker commences services under this agreement without the proper badge, key or background screening;
- Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable background screening; or
- Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement.
- Contractor acknowledges and agrees that the access control, badge and key requirements in this section are necessary to preserve and protect the public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this section will constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the Contractor will be liable for and pay to the City the sum of \$1,000.00 for each breach by Contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or



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Solicitation Number: RFP-2021-WES-328 (KFT) Addendum #1
Page 2 of 6

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anticipated loss to the City at the time and making of this agreement if Contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages if Contractor breaches this section. The parties further agree that three breaches by Contractor in this section arising out of any default within a consecutive period of three months or three breaches by Contractor in this section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this agreement by Contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

23.7 Employee Identification and Access: Contract Workers are forbidden access to designated restricted areas. Access to each building will be as directed by the authorized Phoenix authorized representative. Contract Workers are not authorized access other than during scheduled hours. Access to the building will be directed by the City's authorized representative.

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

Unless otherwise provided for in the scope of work:

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

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

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



SOLICITATION ADDENDUM

Solicitation Number: RFP-2021-WES-328 (KFT) Addendum #1
Page 3 of 6

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

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

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



SOLICITATION ADDENDUM

Solicitation Number: RFP-2021-WES-328 (KFT) Addendum #1
Page 4 of 6

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QUESTIONS AND ANSWERS

(The following are questions submitted and are represented as they were received.)

Item No.	Question	Response
1	<p>Defense and Indemnification, 1st paragraph. We believe that indemnification clauses should reflect a fair and equitable allocation of the risk involved in the work and cannot accept liability for a client's negligence. Will the following changes to the 1st and 3rd sentences be acceptable?</p> <p><i>Consultant ("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.</i></p> <p><i>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. <u>Consultant's duty of indemnification and defense shall not apply to the extent caused by the acts, negligence or omissions of the Indemnitees.</u></i></p>	<p>The City rejects the proposed revisions to the Defense and Indemnification clause.</p>
2	<p>Defense and Indemnification: We cannot accept the potential for unlimited damages in any project as we cannot incorporate the risk of such unforeseeable damages into our prices. Therefore, we propose to include a cap to total potential liability. Is this acceptable? We propose that the following be added as a new paragraph to this section:</p> <p><i>Notwithstanding anything to the contrary stated elsewhere in this Agreement, Consultant's maximum liability under this Agreement or any other attachments hereto whether based in contract, tort, warranty, negligence or otherwise shall not exceed amounts recoverable under the scope and limits of the insurance required under this Agreement, up to a maximum of \$3,000,000. In no event shall Consultant be liable to the City for any special, indirect, or consequential damages occasioned by the services performed or by application or use of the reports prepared under this Agreement</i></p>	<p>The City rejects the proposed addition to the Defense and Indemnification section.</p>



SOLICITATION ADDENDUM

Solicitation Number: RFP-2021-WES-328 (KFT) Addendum #1
Page 5 of 6

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3	<p>On the Intent to Submit form, please clarify the purpose and access for the requested email addresses. The form says that those emails will have access to upload documents. Is this is reference to uploading documents for the bid submittal? RFP responses in our laboratory are approved by someone with contract signatory approval, but the actual document upload is not typically performed by someone with signatory approval.</p>	<p>The e-mail address requirement on the Intent to Submit form is to allow the City to forward the unique upload link which the offeror must use to submit their proposal response to the RFP. Offerors may provide a maximum of two email addresses. The City does not have a requirement that the signatory must also upload the Offeror's proposal response.</p>
4	<p>Background Screening, do all laboratory workers require background screening at the Maximum risk level? Or only those that may come on site?</p>	<p>All Contractor and subcontractors' workers pursuant to this Agreement will be subject to background and security checks and screening; per Section III, Item 23-24 Background Screening and Addendum 1.</p>
5	<p>Can we no-bid line items?</p>	<p>Please refer to Exhibit D – Fee Schedule, Tab 1 - Instructions</p>
6	<p>Can the laboratory coordinate with the City to optimize sample pick-up times? For example, if short holds are not an issue, can samples be picked up the day after collection?</p>	<p>Please refer to Section V - Scope of Work, Item 6 - Sample Scheduling</p>
7	<p>Which environmental laboratory services employees would require background screening? Specifically, would courier services, either commercial or contractor employees, be required to obtain the background screening? The only category under section 24.2, they would fall under would be unescorted access to critical infrastructure sites/facilities. We are assuming that any of our employees or commercial courier service providers would be escorted during sample pick-ups/deliveries but wanted to clarify for preparation purposes.</p>	<p>See Question #4 regarding required background screening for Contractor and Subcontractor workers.</p>
8	<p>Will the City accept clarifications, e.g. clarifying an alternate acceptable method, EPA 504 by EPA 551.1?</p>	<p>Please refer to Section V – Scope of Work, Item 25.4</p>



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Page 6 of 6

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9	"Key personnel also include any Contractor employees providing full-time effort for the Contractor." Does this include lower responsibility personnel; as clerical, line chemists below supervisor and non-analytical lab staff who are full-time employees? Examples are bottle washers, warehouse staff, bench chemists, shipping clerks, etc. If so, does the requirement of, staff change notification to the City, apply to this level of employee?	Please refer to Section V - Scope of Work, Item 15 – Key Personnel

The balance of the specifications and instructions remain the same. Bidder must acknowledge receipt and acceptance of this addendum by returning the entire addendum with the bid or proposal submittal.

Name of Company: _____

Address: _____

Authorized Signature: _____

Print Name and Title: _____