



CITY OF PHOENIX
Human Services Department

REQUEST FOR QUALIFICATIONS (RFQu)
RFQu-21-CSSD-46

Senior Services Entertainers and/or Instructors

**DEADLINE FOR RECEIVING
STATEMENT OF QUALIFICATIONS (SOQ)**

July 15, 2021 at 3:00 PM (local time)
Phoenix City Hall Building
Human Services Department
200 W. Washington Street, 18th Floor
Phoenix, AZ 85003-1611

PROCUREMENT OFFICER
Nancy Harrison
hsdprocurement@phoenix.gov

Are you SBE/DBE certified? For more information, go to:
<http://insidephx/depts/eod/certification>



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SOLICITATION RESPONSE CHECKLIST

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Please read before continuing to the proposal 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.

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

- All forms have been completed and signed, including Solicitation Disclosure form.
- All Submittals are included.
- Reviewed and verified prices offered.
- Checked price extensions and totals.
- Included any required drawings or descriptive literature.
- If required, checked and included the amount of the offer surety.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included the specified number of copies of the offer as indicated in Submittal section.
- Included signed addenda, if any.

E-MAILED THE RESPONSE IN TIME – CITY MUST RECEIVE OFFERS NO LATER THAN THE DATE AND TIME INDICATED IN THE SCHEDULE OF EVENTS OR ADDENDA.



SECTION I - INSTRUCTIONS

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1. DESCRIPTION – STATEMENT OF NEED:

- 1.1. The City of Phoenix invites sealed offers for Senior Services Entertainers and/or Instructors for a five-year period commencing on or about August 1, 2021, in accordance with the specifications and provisions contained herein.
- 1.2. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.3. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

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

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

3. SCHEDULE OF EVENTS:

| ACTIVITY (All times are local Phoenix time) | DATE |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Written Inquiries Due Date | Friday, June 25, 2021 by 3:00 PM |
| Response to Written Inquiries | Wednesday, June 30, 2021 |
| Offer Due Date | Thursday, July 15, 2021 by 3:00 PM |
| Offer Submittal | Bids shall be submitted electronically via email to hsdprocurement@phoenix.gov . Enter the solicitation number on the subject line of the email when submitting your bid. |

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

4. REQUEST FOR QUALIFICATIONS RESPONSE SUBMITTAL:

- 4.1. Submittals shall be received no later than the date and time indicated in the Schedule of Events.
- 4.2. Offeror must submit one original and one thumb drive of the RFQu response.
- 4.3. All forms provided in Section VI – Submittals 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.



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- 4.4. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror's errors or omissions.
- 4.5. All time periods stated as a number of days will be calendar days.
- 4.6. It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:
- 4.6.1. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 4.6.2. Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
 - 4.6.3. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
 - 4.6.4. The City does not reimburse the cost of developing, presenting or providing a 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.

5. OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Internet access is available at all public libraries. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix Human Services Department, Management Services Division, 200 W. Washington Street, 18th 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.



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The City encourages Offerors to send inquiries to the Procurement Officer rather than including exceptions in their Offer.

7. INQUIRIES:

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

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

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

8. ADDENDA:

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

9. BUSINESS IN ARIZONA:

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

10. LICENSES:

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

11. CERTIFICATION:

By signature in the offer section of the Offer page, Offeror certifies:

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



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12. SUBMISSION OF OFFER:

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

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

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

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

13. WITHDRAWAL OF OFFER:

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

14. OFFER RESULTS:

Offers will be opened on the Offer Due Date, time and location indicated in the Schedule of Events, at which time the name of each Offeror, and the prices may be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the QVL 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.

15. SPECIAL REQUIREMENTS:

In order for an RFQu response to be considered, the Offeror shall comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Any questions in regard to these requirements shall be directed to the Equal Opportunity Department, (602) 262-6790.



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16. QUALIFICATION CRITERIA:

Statement of Qualifications shall relate specifically to the following item for evaluation and selection purposes:

Offerors must have at least two (2) years of verifiable instruction experience and/or certification for all services being submitted.

17. EVALUATION AND SELECTION:

- 17.1.** After evaluating all submissions, the City may ask some or all the firms that submitted a response to participate in interviews. Upon completion of the evaluation process, the City may assign a detailed scope of work to the selected candidate and negotiate fees for services. Multiple vendors may be selected to perform the services.
- 17.2.** RFQu responses should be concise, well-organized according to the requested information and clearly written. The review process places considerable emphasis on the responsiveness of the RFQu response to the requirements outlined above. RFQu responses that are not written specifically in response to this request cannot receive serious consideration.
- 17.3.** All RFQu responses will be evaluated based on the criteria listed above in the Qualifications Criteria and the Submittal Section of this RFQu.
- 17.4.** The firms under consideration for this RFQu, will be evaluated by the Procurement Officer. The City reserves the right to request supplemental information that the Procurement Officer deems necessary to make a selection.

18. AGREEMENT:

- 18.1.** The City may require the selected Offerors to participate in negotiations and to submit such cost, technical or other revisions of the submittals as may result from negotiations. The City shall draft all final contracts and documents that result from this RFQu.
- 18.2.** The language contained in this RFQu, the Offeror's SOQ, and Exhibit A – Recreational Services Contract will form the basis of any resulting Contract. However, this RFQu does not commit the City to enter a Contract, to pay any costs incurred in the preparation of a submittal to this request or in subsequent negotiations, or to procure a contract for the project(s).

19. 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



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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.

20. SOLICITATION TRANSPARENCY POLICY:

- 20.1. 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.
- 20.2. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Offerors may not discuss the solicitation with any City employees or evaluation panel members.
- 20.3. Offerors may discuss their proposal or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.
- 20.4. With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.
- 20.5. 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.
- 20.6. "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



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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.

21. PROTEST PROCESS:

- 21.1.** 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.
- 21.2.** 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.
- 21.3.** 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.
- 21.4.** 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.
- 21.5.** All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
 - 21.5.1. Identification of the solicitation number;
 - 21.5.2. The name, address and telephone number of the protester;
 - 21.5.3. A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
 - 21.5.4. The form of relief requested; and
 - 21.5.5. The signature of the protester or its authorized representative.



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21.6. 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.

22. PUBLIC RECORD:

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked "confidential." The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

23. LATE OFFERS:

Late Offers will be rejected. 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. The City is not responsible for late Offers as a result of their being sent via U.S. mail in time to the designated location. It is the responsibility of the Offeror to ensure their Offers are properly received before the due date and time.

24. 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,



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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.

25. 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.

26. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

- 26.1.** Offers will be reviewed for documentation of any required minimum qualifications, and completeness and compliance with the solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.
- 26.2.** Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers will render an Offer nonresponsive.
- 26.3.** Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the Offeror, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible Offeror. Responsibility includes the Offeror's integrity, skill, capacity, experience, and facilities for conducting the work to be performed.
- 26.4.** The Procurement Officer will review each Offer to determine if the Offeror is responsible. 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.
- 26.5.** 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.



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27. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE:

The Procurement Officer will reach a pass/fail consensus score for each evaluation criterion. The overall consensus will determine the Offerors' rankings, and which Offers are within the Competitive Range, when appropriate.

28. OFFERS NOT WITHIN THE COMPETITIVE RANGE:

The City may notify Offerors of Offers that the City determined are not in the Competitive Range.

29. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:

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

29.2. 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).

29.3. 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.

30. BEST AND FINAL OFFERS (BAFO):

30.1. 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.

30.2. 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



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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.

- 30.3.** The Procurement Officer will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.
- 30.4.** 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.



1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

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

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

May: Indicates something that is not mandatory but permissible.

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

“A.R.S.” Arizona Revised Statute

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

"City" The City of Phoenix

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

"Contract" or "Agreement" The legal agreement executed between the City of Phoenix, AZ and the Contractor.

“Days” Means calendar days unless otherwise specified.

“Deputy Finance Director” The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.

“Employer” Any individual or type of organization that transacts



SECTION II – STANDARD TERMS AND CONDITIONS

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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.
- 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 exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or



acquiescing party has knowledge of the nature of the performance and opportunity to object.

3. CONTRACT ADMINISTRATION AND OPERATION:

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

3.2. DISCRIMINATION PROHIBITED: Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended.

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

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

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment



practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.

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

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



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3.4.4 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.

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. COSTS AND PAYMENTS:

- 4.1. GENERAL:** Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.

- 4.2. PAYMENT DEDUCTION OFFSET PROVISION:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor



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agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

- 4.3. LATE SUBMISSION OF CLAIM BY CONTRACTOR:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.
- 4.4. DISCOUNTS:** Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
- 4.5. NO ADVANCE PAYMENTS:** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.
- 4.6. FUND APPROPRIATION CONTINGENCY:** The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.
- 4.7. MAXIMUM PRICES:** The City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies, by signing this Offer that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Offer and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.
- 4.8. F.O.B. POINT:** All prices are to be quoted F.O.B. delivered, unless specified elsewhere in this solicitation.

5. CONTRACT CHANGES:

- 5.1. CONTRACT AMENDMENTS:** Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer,



agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

5.2. ASSIGNMENT - DELEGATION: No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

5.3. NON-EXCLUSIVE CONTRACT: Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

5.4. 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 prior to the institution of the change.

6. RISK OF LOSS AND LIABILITY:

6.1. TITLE AND RISK OF LOSS: The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

6.2. ACCEPTANCE: All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

6.3. FORCE MAJEURE: Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent



that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

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

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

- 6.5. CONTRACT PERFORMANCE:** Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.



- 6.6. DAMAGE TO CITY PROPERTY:** Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

7. CITY'S CONTRACTUAL RIGHTS:

- 7.1.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.
- 7.2. NON-EXCLUSIVE REMEDIES:** The rights and remedies of the City under this Contract are non-exclusive.
- 7.3. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- 7.4. ON TIME DELIVERY:** Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.
- 7.5. DEFAULT:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- 7.6. COVENANT AGAINST CONTINGENT FEES:** Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to



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deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

7.7. COST JUSTIFICATION: In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.

7.8. WORK PRODUCT, EQUIPMENT AND MATERIALS: All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

8. CONTRACT TERMINATION:

8.1. GRATUITIES: The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

8.2. CONDITIONS AND CAUSES FOR TERMINATION:

8.2.1 This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or 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 is on the person who is conducting business in Arizona and the City of Phoenix. The legal liability to remit the tax is on the person conducting business in Arizona. Any failure by the Contractor to collect applicable taxes from the City shall not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective Offeror 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 [Phoenix Tax Division](#) or [State of AZ Department of Revenue](#). 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 agrees to remit any overpayments back to the City for miscalculations on taxes included in a Offer price.



10. TAX INDEMNIFICATION:

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

11. TAX RESPONSIBILITY QUALIFICATION:

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



1. PRICE:

All prices offered shall be firm and fixed for the term of the contract.

2. METHOD OF ORDERING (PURCHASE ORDERS):

Issuance of written purchase order(s) by the Community and Senior Services Division. Contractor shall deliver items and/or services only upon receipt of a written purchase order issued by the Community and Senior Services Division. All Contractor invoices and packing/delivery tickets must include the City of Phoenix purchase order number.

3. METHOD OF INVOICING:

Each invoice will be accompanied with supporting documentation and will be submitted free of mathematical errors. Sample of invoice is attached hereto as Exhibit B – Recreational Services Invoice Template. All appropriate documentation will be provided that supports the charges reflected in the invoice. Upon finding an error and/or missing documentation, the City will return the invoice to the Contractor. The Contractor will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, rate charged, and a detailed description of the Services performed. Failure of City to identify an error does not waive any of the City's rights.

Invoice must include the following:

- City contract agreement number.
- Vendor name and complete address
- Vendor Identification Number
- Description of services provided
- Dates of services provided
- Unit price, extended and totaled.
- Applicable tax.
- Total amount due
- Invoice number and date.

Invoices shall be submitted via mail or email to the Senior Center Supervisor in which the Services were provided. The Senior Center Supervisor's contact information is attached hereto as Exhibit C – Senior Centers Locations and Supervisors.

4. METHOD OF PAYMENT:

Payment to be made from Contractor's invoice, and a copy of the signed delivery invoices submitted to cover items received and accepted during the billing period. Invoices must contain the agreement number under which the contract is awarded.

**5. 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 prior to the institution of the change.

6. AWARD QUALIFICATION:

The Contractor hereby agrees that any of its employees who may be assigned to the City sites satisfy obligations under this contract shall be used exclusively for that purpose during the hours when they are working in areas covered by this Contract and shall perform no work at other City of Phoenix facilities. In the event that other services, in addition to or separate from the services specified herein, may be deemed necessary by the Deputy Finance Director or Department Director or his authorized representative, the Contractor may be requested to perform the additional or special service.

7. CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENT:**7.1. Contractor and Subcontractor Workers Background Screening:**

- 7.1.1.** Contractor agrees that all Contractor and subcontractors' workers (collectively "Contractor's Worker(s)") that Contractor furnishes to the City 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 addressed in the Scope of Work.
- 7.1.2.** The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.
- 7.1.3.** The background screening provided by Contractor will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening required in this section is necessary to preserve and protect the public health, safety and welfare.
- 7.1.4.** The background screening requirements set forth in this section 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, in addition to the specific measures set forth below, Contractor and its Contract Workers will take such other reasonable,



prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this agreement.

7.1.5. Unless otherwise addressed in the scope of work, the contracting department will review and approve maximum risk background check results provided by the Contractor. Information to verify the results will be returned to the Contractor after the City’s review. The City will not keep records related to background checks. The City will only respond with an approve or deny.

7.2. Background Screening Level: Because of the varied types of services performed, the City has established two levels of risk and associated background screening: Standard and Maximum risk. The current risk level and background screening required is **MAXIMUM RISK**.

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

7.3.1. work directly with vulnerable adults or children, (under age 18); or

7.3.2. any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or

7.3.3. unescorted access to:

- City data centers, money rooms, high-value equipment rooms; or
- unescorted access to private residences; or
- access to critical infrastructure sites/facilities; or
- direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.

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

7.5. Additional Maximum Risk Background Checks: Maximum screening will additionally require:

7.5.1. Credit Check (for cash handling, accounting, and compliance positions only)

7.5.2. Driving records (for driving positions only)

7.5.3. Fingerprint verification (when Contract Worker is working directly with children or vulnerable adults or scope takes the individual to a City location with Criminal Justice Information System (CJIS) access.)



7.6. Contractor Certification; City Approval of Maximum Risk Background Screening:

- 7.6.1.** Unless otherwise provided for in the Scope of Work, Contractor will be responsible for:
 - 7.6.1.1.** determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,
 - 7.6.1.2.** submitting pass/fail results to the City for approval; and,
 - 7.6.1.3.** for reviewing the results of the background check every three to five years, dependent on scope; and,
 - 7.6.1.4.** to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
 - 7.6.1.5.** Submitting the list of qualified Contract Workers to the contracting department; and,
 - 7.6.1.6.** If, upon review of the background information, the City will advise the Contractor if it believes a Contract Worker should be disqualified. The Contractor will evaluate the Contract Worker and if the Contractor believes that there are extenuating circumstances that suggest that the person should not be disqualified, the Contractor will discuss those circumstances with the contracting department. The contracting department decision on disqualification of a Contract Worker is final.
- 7.6.2.** 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.
- 7.6.3.** 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.
- 7.6.4.** The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
- 7.6.5.** The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Contractor, or any contracted agency that assists with review, after the City’s completed review.
- 7.6.6.** By executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all such background screening requirements for the maximum risk background screening, and verified legal worker status, as required.
 - 7.6.6.1.** Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the City’s written acceptance of Contract Worker’s maximum risk background screening. The City may, in its sole discretion, accept or reject any or all the



Contract Workers proposed by Contractor for performing work under this Agreement. A Contract Worker rejected for work at a maximum risk level under this agreement will not be proposed to perform work under other city contracts or engagements without city's prior written approval.

7.7. Terms of This Section Applicable to all of Contractor's Contracts and Subcontracts: Contractor will include the terms of this section for Contract Worker background screening in all contracts and subcontracts for services furnished under this Agreement.

7.8. 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.

7.9. Continuing Duty; Audit: Contractor's obligations and requirements that Contract Workers satisfy this background screening section will continue throughout the entire term of this agreement. Contractor will notify the City immediately of any change to a background screening of a Contract Worker previously approved by the City. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's compliance with this section.

7.10. Variances and Exemptions

7.10.1. There are federal and state regulations that necessitate an exemption from this policy. Contract Workers who fall under the following areas may be considered exempt from this policy:

- Federal Homeland Defense Bureau (e.g. Aviation, Water Services, Transit, Police and Fire Departments).
- Transportation Security Administration (e.g. Aviation, Fire, and Police Departments).
- Federal Aviation Administration (e.g. Aviation, Police, and Fire Departments).



SECTION III – SPECIAL TERMS & CONDITIONS

CITY OF PHOENIX

- Department of Public Safety (DPS) Administration – presenting a current Level One Department of Public Safety fingerprint card (e.g. Human Services, Housing, Parks, and Aviation Departments).
- Arizona or other State Bars (Lawyers registered to practice and licensed by a State bar).
- Other background checks performed within the last three to five years may be approved if they fit all required criteria herein.

**1. INDEMNIFICATION CLAUSE:**

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

2. INSURANCE REQUIREMENTS:

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

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

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

2.1.1. Commercial General Liability – Occurrence Form



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

| | |
|-------------------------------------------|-------------|
| General Aggregate | \$1,000,000 |
| Products – Completed Operations Aggregate | \$500,000 |
| Personal and Advertising Injury | \$500,000 |
| Each Occurrence | \$500,000 |

- The policy must be endorsed to include coverage for sexual abuse and molestation.
- The policy must be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor.”

2.1.2. Worker’s Compensation and Employers’ Liability

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

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

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

3.1.On insurance policies where the City of Phoenix is named as an additional insured, the City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.

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

4. NOTICE OF CANCELLATION: For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason.



Such notice must be emailed to hsdprocurement@phoenix.gov.

5. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
6. **VERIFICATION OF COVERAGE:** Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for 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 hsdprocurement@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**

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



SECTION V – SCOPE OF WORK

1. The City of Phoenix Human Services Department, Community and Senior Services Division – Senior Programs is inviting qualified Offerors to submit a written RFQu response for Entertainers and/or Instructors.
2. The Community and Senior Services Division is committed to promote independence, maintain dignity and maximize quality of life for its residents through socialization opportunities, supportive services and resource referrals. The Senior Programs provide a multitude of classes, programs, and other services to the community in its 15 Senior Centers. A list of the City’s senior centers can be found in Exhibit C – Senior Center Locations and Supervisors. Some class programs and services include, but are not limited to, dance, fitness, music, art, theater, computer and internet instruction, and language classes.
3. Through this RFQu, the City will add vendors to a QVL based on the categories listed in Attachment A – RFQu Response Form. Once established, the QVL shall be in effect beginning on or about August 1, 2020 through June 30, 2025.
4. The City desires to engage qualified Offerors to provide various recreational services at various senior centers and facilities located throughout Phoenix. Categories for recreational services include, but are not limited to, sports, dance, fitness activity, performing arts and music instruction, arts and crafts, science and language instruction, and miscellaneous services.
5. **Contractor shall:**
 - a) Provide classes as agreed upon and approved per the QVL.
 - b) Maintain accurate records to include, but not limited to, attendance records.
 - c) NOT collect registration fees on the City’s behalf.
 - d) Ensure Contractor and its employees act professionally, ethically, and diligently carry out their responsibilities with acknowledgement and due respect for their expertise and licensure, as applicable, and in the best interest of the City’s seniors, their health and welfare.
6. **Time of Performance**
 - a) Schedule will be determined by Senior Center Supervisors as outlined by each agreed upon program.
 - b) Recreational Services Contract is valid from August 1, 2021 until no later than June 30, 2025.
7. **Contractor Conduct**

Harassment can be defined as any behavior that is disrespectful and causes discomfort to another person. Harassment, whether physical or verbal, destroys morale and impairs teamwork and efficiency. The City of Phoenix has a strong policy against any form or type of harassment to any person. It is important for all persons



to recognize that harassment based on any of the protected characteristics or race, color, religion, sex, age, national origin, ancestry, citizenship, disability, veteran status, medical condition, marital status and sexual orientation is illegal. Failure to adhere to the terms of the contract may be cause for immediate contract termination.

8. Registration Fees and Payment

Registration fees may be collected by the City of Phoenix, Human Services Department. However, the Recreation Services Contract is designed to pay the Contractor for services rendered at the rate set forth in Attachment C – Scope of Services and Fees.

Advance payments are not possible.

The City of Phoenix will not withhold money for social security or federal income tax. Payments to the “Independent Contractor” from the City in excess of \$600 will be reported to the Internal Revenue Service. It is the Contractor’s responsibility to satisfy any taxes due by the Contractor in an appropriate manner.

Virtual Services

In response to increased safety and social distancing guidelines, senior centers may expand programming to include virtual formats.

1. OBJECTIVE

The purpose of this scope is to provide Contractor with the opportunity to expand the services outlined in Attachment B to a virtual format. Contractor will also have the option to amend the cost for virtual programming services according to participation, per person kit fees, and/or additional time needed to complete services virtually.

2. VIRTUAL SERVICES

Virtual programs include live or recorded programs over the Internet or telephonic activities for senior center members. Contractor will provide to the City an explanation of how services will be provided virtually.

Contractor will include information on where virtual services will be provided (at home, in a studio, or at a senior center) and any related virtual programming needs. The City will not provide Internet connection or electronic/projector equipment to the Contractor. If needed, the City will make space and equipment available to Contractor at identified senior centers on a scheduled basis during regular business hours.

Services will remain as outlined in Attachment B – Scope of Services and Fees, but will be amended to allow for provision of services in a virtual format. The Contractor will provide services utilizing a Human Services Department WebEx account or other approved virtual platform. The Contractor will schedule virtual programming in coordination with Senior Programs staff, make arrangements for



presentation/production of the class, and provide an invoice to the City following the class either electronically or as a hard copy. If additional supplies and/or delivery of supplies to participants is necessary, changes must be explicitly identified and explained.

Contractors will not be given access to any senior center member’s Personal Identifying Information (PII). Senior Center members will be contacted and informed of each class offering by Senior Programs staff. Senior Programs staff will pre-register members for each class, conduct a check in/roll call process prior to each class, and monitor each class offered on WebEx or other approved virtual platform by the Contractor.

3. STANDARDS

Contractors shall perform the services outlined herein to the satisfaction of the City with the degree of skill and care that does not endanger or injure senior center members and City staff; and does not damage City premises or equipment. The Contractor represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is organized and financed to perform the services outlined herein. Services provided by the Contractors will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of the Contractor’s profession currently practicing in the same industry under similar conditions.

4. PAYMENT FOR VIRTUAL SERVICES

Upon completion of all services, Contractor will submit a valid and error-free invoice electronically or in hard copy to the Center Supervisor where services are being rendered. Invoices may not be submitted prior to services rendered. A valid invoice must include the following information:

- Vendor Name and Complete Address
- Vendor Number
- Contract Number
- Service Date
- Description of Services Provided
- Unit Price, Extended and Totaled (example: cost per hour)
- Applicable Tax
- Total Amount Due
- Invoice Number
- Invoice Date
- Signed and Dated Invoice

The City Senior Programs staff will verify information included on the invoice and submit for payment.



Upon completion of the service and upon receipt of a valid invoice from the Contractor, Senior Programs staff will process the invoice and payment will be remitted per City standards, usually within 45 days of the service.

5. CONTRACTOR’S REQUIREMENTS AND QUALIFICATIONS

The Contractor represents that it is familiar with the work to be performed and any conditions that may affect its performance. The Contractor further represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is organized and financed to perform the services. Services provided by Contractor will be performed in a manner consistent with that level of care and skill ordinarily exercised by member of the Contractor’s profession currently practicing in the same industry under similar conditions.

6. CONTRACTORS RESPONSIBILITIES

6.1. If applicable, Contractor must have a per person supply reimbursement amount listed on their contract. Example is a craft class with a “craft kit” that is to be supplied by the Contractor. Supply reimbursements must adhere to the following criteria for each class.

The following details must be agreed upon between Senior Programs staff and the Contractor at least 10 (ten) business days prior to the scheduled class date:

- Required course supplies, i.e. “craft kits”
Reimbursement cost per student as listed on contract. Payment as listed on contract either as a cost per student or hourly/session fee.
- Reimbursement supply quantity (this is based upon the number of registered participants in CMS at the time of discussion with the Contractor and staff).
- Course date and time
- Course location.

7. CITY’S RESPONSIBILITIES

7.1. The City is able to provide space and equipment for the Contractor to provide their service(s) in a virtual format. This includes access to a room at a senior center, standard equipment for the service, and a means to project the class electronically such as a laptop, smart TV and/or digital camera. Space and equipment use are dependent on the programming schedule and must be coordinated with Senior Programs staff during regular program hours (Monday through Friday, 8 a.m. to 5 p.m.).



1. SUBMISSION OF OFFER:

- 1.1. Electronic Offers must be in possession of the Department on or prior to the exact time and date indicated in the Schedule of Events. Late offers will not be considered. The prevailing clock will be the email arrival time.
- 1.2. Due to the COVID-19 pandemic, if you plan to respond to this solicitation, please submit your bid electronically via email to hsdprocurement@phoenix.gov. The date and time on the email will provide proof of submission and verification if the bid was received on or prior to the Due Date and Time. Please enter the solicitation number on the subject line of the email when submitting your bid. Indicate in the body of the email that you are submitting a response to the solicitation.
- 1.3. Offers must be submitted electronically via email and the following information should be noted on the subject line:
 - Solicitation Number
 - Solicitation Title

1. OFFER SUBMITTAL FORMAT:

The written offer should be:

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

- Tab 1 General Information**
- Tab 2 Company Information**
- Tab 3 All Submittals**
- Tab 4 Signed Addenda**

2. OFFER SUBMITTAL CONTENT:

The Offeror’s response will include the following:

2.1. Tab 1 – General Information

In this section, Offeror shall provide one page with the following information:

Full company name, address, phone number, and the name and email address of your contact person for the proposal. Do not include additional information.



2.2. Tab 2 – Company Information

In this section, Offeror shall provide the following information:

- a) Narrative detail of company and company history
- b) Names and resumes of all proposed staff

2.3. Tab 3 – All Submittals

In this Section, Offeror shall complete and submit the following documents:

- a) Attachment A – RFQu Response Form
- b) Attachment B – Contractor Information Form and Employees/Additional Instructors/Performers
- c) Attachment C – Scope of Services and Fees
- d) Attachment D – Cost and Payment Terms and Options
- e) Attachment E – References
- f) Attachment F – Signed Offer Form
- g) Attachment G – Signed Solicitation Transparency Disclosure Form
- h) Attachment H – Confidential Information Form
- i) Attachment I – Affidavit of Lawful Presence, if applicable
- j) Attachment J – Sole Proprietor Worker’s Compensation Waiver, if applicable

Complete all information directly in the PDF files provided prior to printing.

2.4. Tab 4 – Signed Addenda

In this Section, Offeror must acknowledge receipt of all solicitation addenda by signing and submitting the addenda with the proposal.