



CITY OF PHOENIX

**Information Technology Services
Contracts & Procurement Section
251 W. Washington Street, 6th Floor
Phoenix, AZ 85003**

**REQUEST FOR PROPOSAL
ITS RFP 22-001 (RX)**

**DISASTER RECOVERY AS A SERVICE (DRaaS) –
REQUIREMENTS CONTRACT**

**Reyna Xochicale
Procurement Officer
251 W. Washington Street, 6th Floor
Phoenix, AZ 85003
(602) 261-8481
ITS.Financial.Procurement@phoenix.gov**

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

SOLICITATION RESPONSE CHECK LIST

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

- All forms have been completed and signed, including Solicitation Disclosure form.
- All Submittals are included.
- Reviewed and verified prices offered.
- Checked price extensions and totals.
- Included any required drawings or descriptive literature.
- If required, checked and included the amount of the offer surety.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included signed addenda, if any.
- Emailed entire proposal to ITS.Financial.Procurement@phoenix.gov.
- Emailed the response in time – the City must receive offers no later than the date and time indicated in the Schedule of Events or addenda.**



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1. DESCRIPTION – STATEMENT OF NEED:

- 1.1. The City of Phoenix invites sealed offers for Disaster Recovery as a Service (DRaaS) for an initial four-year period commencing on or about November 1, 2021, with options to extend, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.
- 1.2. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.3. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

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

Vendors must be registered in the City’s procurePHX Self-Registration System at <https://www.phoenix.gov/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	DATE & TIME (All times are local Phoenix time)
Pre-Offer Conference	Friday, July 30, 2021 at 10:00 am Join by phone: +1-415-655-0001 Access Code: 177 480 9659 Meeting Link: https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m98857a8a4df75053add60aaf1b606174
Written Inquiries Due Date	Tuesday, August 3, 2021 at 4:00 PM
Offer Due Date	Monday, August 16, 2021 at 3:00 PM Offer Opening Meeting at 3:15 PM Join by phone: +1-415-655-0001 Access Code: 177 746 7114 Meeting Link: https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=ma5f2aeb3485960c16e6b1b25dd30992a
Offer Submittal	Electronic Submission
Vendor Interviews/Demos (if required)	TBD (potentially Sept. 7 – Sept. 17, 2021)



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

4. PREPARATION OF OFFER:

- 4.1. All forms provided in Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.
- 4.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror's errors or omissions.
- 4.3. All time periods stated as a number of days will be calendar days.
- 4.4. It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:
 - 4.4.1. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 4.4.2. Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
 - 4.4.3. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
 - 4.4.4. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
 - 4.4.5. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
 - 4.4.6. Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the



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products offered. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

- 4.4.7. Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.

5. **OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:**

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/> Internet access is available at all public libraries. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix Information Technology Services Department, Management Services Division, Contracts & Procurement Section, 251 West Washington Street, 6th Floor, Phoenix, AZ. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their offer.

6. **EXCEPTIONS:**

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

7. **INQUIRIES:**

All questions that arise relating to this solicitation should be directed via email to the Procurement Officer at its.financial.procurement@phoenix.gov 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.



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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 and Acceptance page(s), Offeror certifies:

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

12. SUBMISSION OF OFFER:

12.1. Offer Timing

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 will remain in effect for a period of 180 calendar days from the opening date and are irrevocable unless it is in the City's best interest to release Offer(s).

12.2. Offer Format

Offers must be submitted electronically via email to its.financial.procurement@phoenix.gov and the following information should be noted in the email:

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

Due to file size limitations for electronic transmission (for sending or receiving), offers sent by email may need to be sent in parts with multiple emails. It is the



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

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

Please submit only the required information and documentation; do not submit a copy of the entire solicitation document.

Offerors' submissions must 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

Electronic submissions must include a Table of Contents and be organized to follow the major Proposal Sections.

- Cover Letter and Executive Summary (Proposal Section 1)
- DRaaS Solution Requirements Submittal (Proposal Section 2)
- Method of Approach (Proposal Section 3)
- Qualifications, Experience and References (Proposal Section 4)
- Submittals (Proposal Section 5)
- Signed Addenda (Proposal Section 6)
- Pricing Submittal (Proposal Section 7)

Additional details about each of these major Proposal Sections is provided below.

2.6.1. Cover Letter and Executive Summary (Proposal Section 1)

Proposals shall be submitted to the City with a Cover Letter and Executive Summary that succinctly yet clearly summarizes the Offeror's solution, implementation plan, and proposed schedule, using the phases listed in this RFP as a guide. Components of the Cover Letter and Executive Summary should include, at a minimum:

- Proposal background
- Scope of services
- Vendor qualifications



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- Overview of proposed solution
- Overview of proposed implementation plan
- Overview of proposed schedule
- Benefits to the City
- Term of proposal

2.6.2. DRaaS Solution Requirements (Proposal Section 2)

Proposal Section 2 must include:

- A completed DRaaS Solutions Rqmts worksheet from Attachment B, in its original Microsoft Excel format
 - The Excel spreadsheet must be submitted unlocked and without password protection. All fields must be completed.
- A completed DRaaS RACI Template from Attachment B, in its original Microsoft Excel format
 - The Excel spreadsheet must be submitted unlocked and without password protection. All fields must be completed.
- Offeror's standard SLA
 - The provider should submit their standard Service Levels Agreement (SLA) for fully managed DRaaS. This should include how compliance with the SLA will be measured and reported with an example. Offeror shall detail customer compensation for unmet SLAs. Final SLA's will be determined as part of Contract negotiations.
- Narrative responses (in Word doc format) to the following open-ended questions about **Infrastructure**:
 - What is typically encompassed in your fully managed DRaaS solution?
 - Provide a complete description of the proposed infrastructure including quantities, configuration and models of equipment, applications, types of data storage, memory, CPU/servers, network, storage used to support the proposed disaster recovery solution.
 - What types of devices do you propose to monitor as part of the proposed solution?
 - Provide details of expected performance and any degradation should the Vendors client stress their environment to 100% of what? Compute capacity? Storage capacity? Network capacity? All the above?
- Narrative responses (in Word doc format) to the following open-ended questions about **Data Replication**:
 - Please explain the overall approach to data replication?
 - What tools or technologies will be used to support data replication?
 - What approaches will be taken to ensure the integrity of



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- databases for applications that have short recovery timeframes (e.g., less than 15 minutes) and are being updated throughout the day?
- Narrative responses (in Word doc format) to the following open-ended questions about **Storage Requirements**:
 - Describe how the Vendor solution will make sufficient storage continually available for incremental data replication from the primary site to the DR site; including the Vendor's storage backup (DR) strategy.
 - Describe Vendor's procedures to perform regular data integrity checks on backups.
 - Narrative responses (in Word doc format) to the following open-ended questions about **Network**:
 - Describe how circuits between sites are fail safe and of sufficient bandwidth to handle 100% of the City's peak demand.
 - Circuits into and out of the Vendor location should support the City's existing environment and be described in detail (type, bandwidth, etc.). Include how they are managed, monitored and how alerts are communicated to the City when appropriate.
 - Explain your Internet provisioning infrastructure.
 - What is the limit of network utilization you reach before you add more bandwidth to your facility? How do you track this metric each month?
 - Narrative responses (in Word doc format) to the following open-ended questions about **Operational Support**
 - Provide details on how relevant infrastructure and/or tool set changes will be communicated to the City (to allow sufficient time for the City to review and to provide input needs to be made available prior to implementation).
 - Provide a high-level overview of your organization's problem and escalation process.
 - Narrative responses (in Word doc format) to the following open-ended questions about **Facility Infrastructure**:
 - Provide details of all recovery centers and facilities. Indicate site(s) that would be used as our primary disaster recovery center and a secondary site, if needed. Include any data center that is certified by the Uptime Institute (i.e., Tier I, II, III, IV).
 - Outline any co-location or associated managed service facilities that are included in your proposal (including partnerships or alliances).
 - What is the geographical location of the proposed solution?



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- What are the current space and power utilization rates for the proposed solution?
 - Provide high-level overview of recent risk assessment performed at the proposed data centers to minimize risks (manmade, natural, etc.).
- Narrative responses (in Word doc format) to the following open-ended questions about **Governance**:
 - Outline the governance model, roles and responsibilities between Vendor and the City with problem triage either during recovery exercising and with recovery operations.
- Narrative responses (in Word doc format) to the following open-ended questions about **Information Security and Risk Management**:
 - Describe the Vendor's provisions to secure transfer of data from the data center sites to the Vendor's disaster recovery site.
 - Describe the Vendor's policy about data breach notification, response, and follow-up mitigation.
 - What specific protections are in place to protect backup data against "ransomware" attacks?
- Narrative responses (in Word doc format) to the following open-ended questions about **Disaster Alert and Declaration**:
 - Describe the timing and processes in place that provide sufficient time to make infrastructure resources available to spin up the necessary DR environment.
 - How does vendor agree to limit the risk of simultaneous declarations from multiple subscribers using the same resources as the City?
 - What is Vendor's policy on regional disasters or multiple, simultaneous disasters when more than one subscriber invokes a disaster declaration and/or are contracted for the same resources?
 - Provide Vendor's policy for preventing the City's right of access to the primary recovery configuration to be pre-empted by another subscriber.
- Narrative responses (in Word doc format) to the following open-ended questions about **Disaster Recovery Testing**:
 - What level of services support will be provided for disaster recovery testing?
 - How many tests are being proposed annually?
 - What is the duration of each test?
 - Does the testing include all systems?
 - What responsibilities will the City need to fulfill to ensure successful disaster recovery testing?



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- What is estimated time commitment for City resources to enable successful disaster recovery testing?
- What approaches will the vendor use to ensure testing errors are remediated (reporting, tracking, assistance with remediation, etc.)?
- Are these services included in the base price proposal?

2.6.3. Method of Approach (Proposal Section 3)

Proposal Section 3 must include:

- A completed DRaaS Onboarding Rqmts worksheet from Attachment B, in its original Microsoft Excel Format.
 - The Excel spreadsheet must be submitted unlocked and without password protection. All fields must be completed.
- A proposed Project Plan and Implementation Schedule
 - Offeror must describe their methodology to complete milestones, activities, deliverables, and requirements described in the SOW using the phases listed in Section IV, subsection 3.1 as a guide, as well as any additional milestones, activities, deliverables Offeror has learned are necessary to ensure the project is not only successful but also is completed in an efficient and effective manner. The Offeror's submission should be of sufficient detail and clearly articulate a detailed, coherent proposed Method of Approach.

2.6.4. Qualifications, Experience and References (Proposal Section 4)

Proposal Section 4 must include the following:

- A document outlining the following Offeror Corporate information:
 - Official Corporate or Agency Name
 - Date Established
 - Business Address(es)
 - Number of people currently employed
 - A description of geographic reach and market penetration
 - Evidence of at least five years' experience providing successful DRaaS hosted solutions for medium to large corporations
 - An outline of partnerships and relationships to date
 - Additional details about the Offeror's experience, including but not limited to:
 - Number of customers
 - Number of actual system recoveries (not declarations) recovered in the last three years
 - Number of customers who are equal or larger than the City that have declared a disaster within the last



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- three years
- Of the customers who declared a disaster within the last three years, the number of customers for whom the Offeror was successful in bringing up the applications within the target recovery window, including full network restoration and application processing (please provide a list of these customers)
- Statistics that demonstrate the Offeror’s level of effectiveness in recovering systems within customers’ target recovery windows in the last three years
- Offeror Contact Information Including:
 - Name
 - Title
 - Telephone Number(s)
 - Email Address
 - Mailing Address
- Authorized Contact Information Including:
 - Name
 - Title
 - Telephone Number(s)
 - Email Address
 - Mailing Address
- A detailed organizational chart of the proposed Project Team
 - Resumes for all proposed implementation team members (including the Project Manager and the Executive Project Sponsor).
- The completed Customer Reference Table from Attachment B
- The completed vendor due diligence questionnaire from Attachment D.

2.6.5. Submittals (Proposal Section 5)

Proposal Section 5 must include the information set forth in Section VI: Submittals:

- Payment Terms & Options
- Offer
- Acceptance of Offer
- Disclosure Form

2.6.6. Signed Addenda (Proposal Section 6)

Proposal Section 6 must include all signed addenda

2.6.7. Pricing (Proposal Section 7)

For Proposal Section 7, hard copy pricing submissions must be sealed in



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separate envelope, and electronic pricing submissions must be contained within a separate folder structure.

Proposal Section 7 must include the following:

- A completed Attachment C, Pricing Template, in its original Microsoft Excel Format.
 - The Excel spreadsheet must be submitted unlocked and without password protection. All fields must be completed.
 - Pricing must be for a fully managed DRaaS system which includes detailed, line item, unit-based pricing (e.g., price per VM, per GB storage, fee for managed services, etc.) valid for the five (5) year term of the contract in the event the City DR application services grow/change.

13. WITHDRAWAL OF OFFER:

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

14. OFFER RESULTS:

Due to the national Covid-19 pandemic emergency and in compliance with the Center for Disease Control and Prevention (CDC) and the Arizona Department of Health Services recommendations for health, safety, and social distancing, all Information Technology Services Department public response openings will be held via remote telephone and video access until further notice.

Offers will be opened remotely and accessible to the public through remote video and telephone conference at the link and dial-in phone number provided by the Information Technology Services Department on the offer due date, time, and location indicated in the Schedule of Events, at which time the name of each Offeror will be read. Offers and other information received in response to this solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post the Offeror's name on the preliminary offer tabulation on the City's website, <https://solicitations.phoenix.gov/Awards> within five calendar days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the offers, the



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City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.

15. **AWARD OF CONTRACT:**

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

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

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

16. **CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:**

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

17. **SOLICITATION TRANSPARENCY POLICY:**

17.1. 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.

17.2. 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.



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- 17.3.** 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.
- 17.4.** 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.
- 17.5.** 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.
- 17.6.** "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.
- 18. PROTEST PROCESS:**
- 18.1.** 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.
- 18.2.** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.



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- 18.3.** 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.
- 18.4.** 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.
- 18.5.** All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
- 18.5.1. Identification of the solicitation number;
 - 18.5.2. The name, address and telephone number of the protester;
 - 18.5.3. A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
 - 18.5.4. The form of relief requested; and
 - 18.5.5. The signature of the protester or its authorized representative.
- 18.6.** 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.
- 19. 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



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time, the Procurement Officer will make the information requested available for inspection.

20. LATE OFFERS:

Late Offers Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being late.

21. RIGHT TO DISQUALIFY:

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offeror submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

22. PERFORMANCE BOND:

A performance surety in the amount of 10% of the total contract amount shall be provided by the Contractor immediately after notice of award. The City of Phoenix will not issue a written purchase order or give notice to proceed in any form until the surety is received by the Procurement Officer. The performance surety must be in the form of a bond, cashier's check, certified check or money order. Personal or company checks are not acceptable unless certified. If surety is in the form of a bond, the company issuing the surety must be authorized by the Insurance Department of Arizona to transact business in the State of Arizona or be named on the approved listing of non-admitted companies. A Certificate of Deposit (CD) issued by a local Phoenix bank may also be used as a form of surety provided that the CD is issued jointly in the name of the City of Phoenix and the Contractor, and that the Contractor endorses the CD over to the City at the beginning of the contract period. Interest earnings from the CD can be retained by the Contractor.

23. CONTRACT AWARD:

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award.

24. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

24.1 Offers will be reviewed for documentation of any required minimum qualifications, and completeness and compliance with the solicitation



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requirements. The City reserves sole discretion to determine responsiveness and responsibility.

24.2 Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers will render an Offer nonresponsive.

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

25. EVALUATION OF COMPETITIVE SEALED OFFERS:

The City will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.

26. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

26.1. Offers will be reviewed for documentation of minimum qualifications, 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 (as the case may be) will render an Offer nonresponsive.

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

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

26.5. 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



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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.

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

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

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings and which Offers are within the Competitive Range, when appropriate.

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. If an Offer in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole



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

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

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 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 Evaluation Panel 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.

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SECTION II – STANDARD TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

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

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

May: Indicates something that is not mandatory but permissible.

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

“A.R.S.” Arizona Revised Statute

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

"City" The City of Phoenix

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

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

“Days” Means calendar days unless otherwise specified.

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



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“Employer”	Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
“Good Cause”	Substantial grounds or evidence based upon facts not in dispute, as determined by the Procurement Officer, that the failure by an aggrieved party, an Offeror, or a respondent to submit a timely Offer, response, protest, or appeal was beyond its control due to misinformation relayed in writing by a City employee.
“Offer”	Means a response from a supplier, 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.



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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.



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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



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

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

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



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

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

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

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

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

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

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

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

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

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

3.5.2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.



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

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

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

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

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

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

4. 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



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after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.

- 4.2. PAYMENT DEDUCTION OFFSET PROVISION:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.
- 4.3. LATE SUBMISSION OF CLAIM BY CONTRACTOR:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.
- 4.4. DISCOUNTS:** Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
- 4.5. NO ADVANCE PAYMENTS:** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.
- 4.6. FUND APPROPRIATION CONTINGENCY:** The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.
- 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.



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4.8. F.O.B. POINT: All prices are to be quoted F.O.B. delivered, unless specified elsewhere in this solicitation.

5. CONTRACT CHANGES:

5.1. CONTRACT AMENDMENTS: Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

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

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

6. RISK OF LOSS AND LIABILITY:

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

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

6.3. FORCE MAJEURE: Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a



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subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

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

- 6.4. LOSS OF MATERIALS:** The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.
- 6.5. CONTRACT PERFORMANCE:** Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

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

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

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and

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finish to match existing material as approved by the City at Contractor's expense.

7. CITY'S CONTRACTUAL RIGHTS:

7.1. Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

7.2. NON-EXCLUSIVE REMEDIES: The rights and remedies of the City under this Contract are non-exclusive.

7.3. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH: Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

7.4. ON TIME DELIVERY: Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

7.5. DEFAULT: In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

7.6. COVENANT AGAINST CONTINGENT FEES: Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.



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- 7.7. COST JUSTIFICATION:** In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.
- 7.8. WORK PRODUCT, EQUIPMENT AND MATERIALS:** All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City’s request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are “works for hire” within the meaning of the copyright laws of the United States, including any right to derivative use of the material.
- 8. CONTRACT TERMINATION:**
- 8.1. GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- 8.2. CONDITIONS AND CAUSES FOR TERMINATION:**
- 8.2.1** This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
- 8.2.2** The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:
- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;



SECTION II – STANDARD TERMS & CONDITIONS

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

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

9. STATE AND LOCAL TRANSACTION PRIVILEGE TAXES:

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

10. TAX INDEMNIFICATION:

Contractor will pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor, and require the same of all subcontractors. Contractor will hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including

	SECTION II – STANDARD TERMS & CONDITIONS	CITY OF PHOENIX
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transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

11. TAX RESPONSIBILITY QUALIFICATION:

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

12. NO ISRAEL BOYCOTT:

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



SECTION III – SPECIAL TERMS & CONDITIONS

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SECTION III – SPECIAL TERMS & CONDITIONS

- 1. TERM OF THE CONTRACT:** The term of this Contract will commence on or about November 1, 2021 and shall expire four-years thereafter. The City may, at their option and with approval of the Contractor, extend the period of this agreement up to six additional years, in increments of two-years (maximum aggregate term ten-years).
- 2. FREE ON BOARD (FOB):**
Prices quoted shall be FOB destination and delivered, as required, to the following point(s):

City of Phoenix
Information Technology Operations Center 149 N 4th Avenue
Phoenix, AZ. 85003

City of Phoenix
c/o Iron Mountain Data Center 615 N 48th Street
Phoenix, AZ 85008
- 3. PRICE:**
All prices submitted shall be firm and fixed for the initial four-year(s) of the contract. Thereafter, price increases will be considered biannually provided the adjustments are submitted in writing with 30 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc. Price decrease requests do not require supporting documentation and are allowed at any time during the contract term.
- 4. METHOD OF ORDERING:**
Contractor shall deliver items and/or services only upon receipt of a written purchase order. All Contractor invoices and packing/delivery tickets must include the City of Phoenix purchase order number.
- 5. METHOD OF INVOICING:**
Invoice must be emailed in .pdf format to invoices@phoenix.gov and must include the following:

 - City purchase order number or shopping cart number
 - Items listed individually by the written description and part number.
 - Unit price, extended and totaled.
 - Quantity ordered, back ordered, and shipped.
 - Applicable tax



SECTION III – SPECIAL TERMS & CONDITIONS

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- Invoice number and date.
- Delivery address.
- Payment terms.
- FOB terms.
- Remit to address

6. METHOD OF PAYMENT:

Payment to be made from Contractor's invoice and a copy of the signed delivery/service ticket submitted to cover items received and accepted during the billing period.

7. PARTIAL PAYMENTS:

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

8. SUPPLIER PROFILE CHANGES:

It is the responsibility of the Contractor to promptly update their profile in procurePHX at www.phoenix.gov/procure. If Contractor's legal identify has changed, the Procurement Officer must be notified immediately. Failure to do so may result in non-payment of invoices and contract termination.

9. ESTIMATED QUANTITIES OR DOLLAR AMOUNTS (REQUIREMENTS CONTRACTS ONLY):

Quantities and dollar amounts listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this agreement, as determined by actual needs and availability or appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirement for the contract period.

10. AUTHORIZED CHANGES:

The City reserves the right at any time to make changes in any one or more of the following, as long as there is not a conflict with the Scope or Proposal: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be deemed waived unless asserted in writing within 30 days from the receipt of the change. Price increases or extensions of delivery time shall not be binding on the City unless evidenced in writing and approved by the Department Director prior to the institution of the change.



SECTION III – SPECIAL TERMS & CONDITIONS

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11. SUSPENSIONS OF WORK:

The Procurement Officer and the project manager reserve the right to suspend work wholly or in part if deemed necessary for the best interest of the City. This suspension will be without compensation to the Contractor, other than to adjust the contract completion/delivery requirements.

12. HOURS OF WORK:

All work under this contract shall be coordinated with the City's project manager. Any changes to the established schedule must have prior written approval by the City's project manager.

13. POST AWARD CONFERENCE:

A post-award conference will be held by the Procurement Officer or project manager prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.

14. PERFORMANCE INTERFERENCE:

Contractor shall notify the City's department contact immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.

Department Contact: Ronda Buker
Phone: 602-534-3596

15. COOPERATIVE AGREEMENT:

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

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

16. ADVERTISING:

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Agreement, the Technology Assets, or any part thereof without the prior written consent of the City. The name of any



**SECTION III – SPECIAL TERMS &
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City site on which services are performed by the Contractor pursuant to this Agreement shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

17. EXCLUSIVE POSSESSION:

All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the City of Phoenix and will not be used by the Contractor or any other person except with prior written permission by the City.

18. STRICT PERFORMANCE:

Either party's failure to insist on strict performance of any term or condition of the Contract will not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it; except where enforcement of this provision would be in conflict with the scope or proposal.

19. LICENSES AND PERMITS:

Contractor shall keep current all federal, state, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.

20. DELIVERY:

All deliveries shall be made between the hours of 8 a.m. and 2 p.m., local time, Monday through Friday, excluding City holidays.

21. DELIVERY/SERVICE TICKET:

Contractor shall provide a packing list or service ticket for items delivered to the City or services provided to the City. Tickets should include the following and a legible copy shall be provided to the City:

- Date
- City purchase order number
- Written description of services which were provided
- Itemized list of materials which were delivered, including quantity
- A unique identification number and Contractor name
- Signature of City employee who accepted for the materials/services

22. MISCELLANEOUS FEES:

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



SECTION III – SPECIAL TERMS & CONDITIONS

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

23. DEMONSTRATION:

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

24. INTELLECTUAL PROPERTY RIGHTS

The Contractor hereby irrevocably transfers, conveys, and assigns to the City all right, title, and interest (including any and all copyrights) in any software and other technology assets created pursuant to or as a result of this Agreement (collectively, the “Work Product”). The City shall have the exclusive right to apply for or register any copyrights and other proprietary protections with respect to the Work Product. The Contractor shall execute such documents, render such assistance, and take such other action as the City may reasonably request, at the City’s reasonable expense, to apply for, register, perfect, confirm, and protect the City’s foregoing ownership interests and copyright and other proprietary protections. To the extent that the foregoing transfer does not provide the City with full ownership, right, title, and interest in and to the Work Product, the Contractor hereby grants the City a perpetual, irrevocable, fully paid, royalty-free, worldwide license to reproduce, create derivative works from, distribute, publicly display, publicly perform, and use the Work Product, with the right to transfer and/or sublicense each and every such right. The rights granted in this section will survive any termination or expiration of this Agreement.

25. WARRANTIES:

Contractor warrants the hardware, software, application(s), or other technology assets provided to the City pursuant to this contract (collectively, the “Technology Assets”), for a period of one year starting with the date of final acceptance (the “Warranty Period”), to be substantially free of any condition which would make the Technology Assets fail to perform in material accordance with the requirements set forth in this Agreement, including any statement-of-work or scope-of-work document (each such condition to be considered an “Error”). Contractor specifically warrants that all software Technology Assets shall be free of any condition which could make them fail to perform in material accordance with this agreement (each such condition to also be considered an “Error”) for a period of nine months after actual installation of the software. If the City reports to Contractor any errors in the system during the Warranty Period, then Contractor shall, at its expense, use reasonable commercial efforts to modify, replace, or otherwise



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remedy the faulty hardware, software, electrical component or other Technology Assets as quickly as reasonably practicable. Where possible, both parties shall attempt to resolve Errors through telephone instruction, issuance of updated documentation, corrective code, or hardware replacement or modification.

26. STANDARDS AND PRACTICES:

Technology Assets shall conform to the generally accepted standards and practices of the trade or industry involved. All work shall be executed by personnel skilled in their respective lines of work.

27. QUALIFICATIONS:

Contractor represents that it is fully experienced and properly qualified; is in compliance with all applicable license requirements; and, is equipped, organized, and financed to provide and/or perform the goods and/or services purchased by the City pursuant to this agreement.

28. INDEMNIFICATION – PATENT, COPYRIGHT AND TRADEMARK:

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

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



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29. COMMUNICATION IN ENGLISH:

It is mandatory that the Contractor’s lead person assigned to any City facility can speak, read, and write in English to effectively communicate with City staff.

30. CONTRACTOR ASSIGNMENTS:

The Contractor hereby agrees that any of its employees who may be assigned to a City site to 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 facilities. If 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.

31. FINAL INSPECTION AND APPROVAL:

The Contractor will request the City’s project manager to conduct a site inspection after the project is complete. City’s project manager will prepare a “punch-list” during the inspection and will forward a copy to the Contractor.

After the “punch-list” items have been corrected, the Contractor will request a final inspection with the project manager. Final project approval is contingent upon the City project manager’s final inspection and written approval.

32. SPECIFICATIONS:

The specifications and/or drawings associated with this project are intended to generally describe a complete installation. Any additional materials or labor required for the complete project as intended shall be provided by the Contractor, even if it has not been detailed in this document.

33. TRANSITION OF CONTRACT:

Contractor will, without limitation, provide important information to a successor Contractor and the City to ensure continuity of service at the required level of proficiency and agrees to provide to the City all files, supplies, data, records, and any other properties or materials of the City, which the City owns or has rights to pursuant to this contract and which are in the possession of Contractor. The provisions of this section will survive the expiration or termination of this contract.

34. BACKGROUND SCREENING:

Contractor agrees that all Contractor and subcontractors’ workers (collectively “Contract Worker(s)”) pursuant to this Agreement will be subject to background and security checks and screening (collectively “Background Screening”) at Contractor’s sole cost and expense, unless otherwise provided for in the scope of work. Contractor’s background screening will comply with all applicable laws, rules



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and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

- 34.1. **Background Screening Risk Level:** The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges.
- 34.2. **Terms of This Section Applicable to all Contractor's Contracts and Subcontracts:** Contractor will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.
- 34.3. **Materiality of Background Screening Requirements; Indemnity:** The background screening requirements are material to City's entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.
- 34.4. **Continuing Duty; Audit:** Contractor's obligations and requirements will continue throughout the entire term of this Agreement. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's records.
- 34.5. **Contractor's Default; Liquidated Damages; Reservation of Remedies for Material Breach:** If Contractor is required to access any City facilities without an escort, City badging is required. Contractor's default under this section will include, but is not limited to, the following:
 - Contract Worker gains access to a City facility(s) without the proper badge or key;



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

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



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

Unless otherwise provided for in the scope of work:

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


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

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

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

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

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

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Replacement Locks: \$55.00 per lock

35. BACKGROUND SCREENING – MAXIMUM RISK:

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

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

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

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

36. CONFIDENTIALITY AND DATA SECURITY:

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

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

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media, as well as data in transit, such as during email or file transfer.

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

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

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

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



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

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

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

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

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

Contractor will maintain and implement policies and procedures to manage service providers with whom cardholder data is shared, as follows:

- Maintain a list of service providers or subcontractors.
- Report PCI DSS compliance status with annual attestation of compliance provided within 30 days of the annual Report of Compliance audit completion, or annual contract renewal date, whichever is sooner, to City that ensures Contractor and all subcontractors are PCI DSS 3.0 compliant and verified by a recognized third party certification.
- Maintain information about which PCI DSS requirements are managed by Contractor.




SECTION III – SPECIAL TERMS & CONDITIONS

CITY OF PHOENIX

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

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

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

	SECTION IV – INSURANCE AND INDEMNIFICATION	CITY OF PHOENIX
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SECTION IV – INSURANCE AND INDEMNIFICATION

1. INDEMNIFICATION CLAUSE:


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

2. INSURANCE REQUIREMENTS:

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

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

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

	SECTION IV – INSURANCE AND INDEMNIFICATION	CITY OF PHOENIX
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2.1.1. Commercial General Liability – Occurrence Form

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

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

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

2.1.2. Automobile Liability

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

Combined Single Limit (CSL)	\$1,000,000
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The policy must be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor.”

2.1.3. Worker’s Compensation and Employers’ Liability

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

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



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

2.1.4. Technology Errors and Omissions Liability (if the Contractor provides technology services or products)

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

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

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

2.1.5. Network Security and Privacy Liability

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

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

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

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

- 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.



SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

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


2.3. NOTICE OF CANCELLATION: For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, hand delivered or sent by facsimile transmission to **City of Phoenix Information Technology Services Department Attn: Management Services – Contracts, 251. W. Washington Street, 6th Floor, Phoenix, AZ 85003** or via email at its.financial.procurement@phoenix.gov.

2.4. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the above- required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

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

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

All certificates required by this Contract must be sent directly to **Information Technology Services Department Attn: Management Services – Contracts, 251. W. Washington Street, 6th Floor, Phoenix, AZ 85003** or via email at its.financial.procurement@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.**

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



SECTION V – SCOPE OF WORK

1. GOALS AND DESIRED OUTCOMES

The City of Phoenix Information Technology Services (ITS) desires to transform its existing Disaster Recovery service contract from a City-managed hardware and tape-based recovery solution to a fully managed DRaaS solution for the applications and systems identified in Attachment A. The City of Phoenix ITS also desires to reduce complexity, support requirements, and long-term costs while meeting the RPO and RTO objectives for the computing capacity and storage specified in Attachment A. This will enable key City applications and systems to function at an acceptable level for City staff and residents to use in the event that a regional (e.g., City-wide) or larger disaster incapacitates City data centers and hosted systems for a sustained period of time.

The City values the following capabilities and characteristics:

- Flexibility and vendor responsiveness to the needs of the City
- Innovative recommendations to the City that would lower costs, shorten response time or otherwise enhance the City’s commitment of “Seamless Service” to its residents.
- Onboarding services that replicate systems, applications, and databases using best practices and architectural knowledge gained from years of experience.
- Integration with other existing cloud DR services including Azure, Oracle, QCM (SAP), Amazon Web Services (AWS) and 3rd Party hosted services to maintain consistent use of business processes during a disaster.
- Established security protections to meet regulatory requirements with which the City must comply
- Prevention of unauthorized access, disclosure, and/or modification of the City’s data to preserve data integrity and citizen trust.
- Orchestrated recovery runbooks that efficiently and effectively reduce the risk of human error and streamline recovery time.
- Change Management that provides for synchronization between a changed production environment and the DR environment.
- Effective approaches to keep City and vendor configurations synchronized over time.

1.1. Overview of Desired Services

The City desires a “fully managed” DRaaS solution that includes:

- Server image and production data replication to the cloud
- Disaster recovery run book creation
- On-demand recovery cloud for planned exercises and declarations
- Automated failover and fallback between on-premises and cloud for workloads with immediate recovery requirements
- Network element configuration during and for recovery operations



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

The fiscal responsibility for all infrastructure utilized must be on the provider, versus using customer-owned assets, independently procured cloud infrastructure as a service (IaaS) or other separate hosting contracts.

2. SCOPE OF SERVICES

2.1. Desired Services

DRaaS services desired by the City include:

- Replication services to replicate data from the City’s data centers to the provider’s computing environment
- Providing computing capacity and storage to support the workloads specified in Attachment A (upon declaration of disaster or to support disaster recovery testing)
- Recovery plan creation and updates
- Creation of run books to automate the recovery
- Full management responsibility for all services including data replication, operating the recovery solution in the event of a disaster or exercise, disaster recovery testing and failover to the recovery infrastructure and fallback to the City’s environment at the conclusion of the disaster event

2.2. Recovery Tiers

The required recovery tiers are shown in Table 1 below. The Recovery Time Objective (RTO) defines the time from the point of disaster declaration to the time when the applications are available for use by the City departments. Offeror proposals must provide for the required hardware and network configuration to be operative and accessible by the City within the RTO specified.

The Recovery Point Objective (RPO) defines the acceptable transaction loss from the point of disruption. Offeror proposals must provide a recovery solution whereby the maximum loss of data that City would incur in the event of a disaster declaration would not exceed the RPO specified.

The specific recovery requirements for each workload is shown in Attachment A.

Table 1: Recovery Tiers

Tier	Category	RTO	RPO
0	Mission Critical	15 minutes	1 hour
1	Critical	1 day	1 hour
2	Important	3 days	1 day
3	Other	1 week	1 day



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

2.3. In-Scope Systems/Applications

The City’s information systems that will be protected by DRaaS consist of the workloads and storage specified in Attachment A.

The City is not requesting the Proposer replicate the Attachment A equipment. The purpose is to let vendors know the scope and capacity that exists at the production data centers.

2.4. Out-of-Scope Systems/Applications

The City has several critical systems already covered by DR. Table 2 below outlines the type of systems and the current DR that exists.

Table 2. Critical Systems Currently Covered by DR

System	Current DR
Critical HR System	Oracle Cloud DR
Critical Retirement System	3 rd Party Cloud Based DR
Critical Planning and Development System	Oracle Cloud DR
Critical Financial System	3 rd Party Cloud Based DR

Although these systems are out of scope for this proposal, integration between these systems and some in-scope systems will be required as there are dependencies that exist among a number of these applications.

Additionally, the City has some cloud based Software as a Service (SaaS) applications including, but not limited to, Office 365, a number of office automation tools and department applications that reside on Azure, Amazon Web Services (AWS), and other application hosting sites. These systems are also out of scope for this proposal, but integration with them will be necessary as there are dependencies that exist among the SaaS applications and the in-scope applications.

2.5. Out-of-Scope Departments

Certain departments will be out of scope for this RFP, including Aviation, Fire, Phoenix Convention Center, Police, and Public Transit.

2.6. Current Environment

2.6.1. Central IT Organization

The City has a central IT Services division that provides various services to the departments. These centralized services include Active Directory, e-Provisioning, Enterprise Storage Platform, Enterprise Backup, Azure Cloud Administration, Oracle Linux/Exalogic Support, Solaris/SUN Support, RedHat



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Linux/Vmware Support, Office365 Administration, VMWare/Cisco UCS Platform Support, Windows Server Support, Orion/Infrastructure Monitoring, VDI Infrastructure Support, SMTP Gateway Support, Azure Exchange Administration, Storage Area Network Support, Enterprise Application Support and Database Administration and Support. IT functions retained by the departments include department specific Vendor Management for contracted systems services/support, department application administration and support, and database administration for non-enterprise managed databases support.

2.6.2. City Infrastructure

The following paragraphs describe the City's current infrastructure for information only. This information makes no attempt to dictate what the provider infrastructure configuration should be to meet the City's requirements. The expectation in providing this information is that Offerors will propose adequate solutions and options for those in-scope applications and associated data and databases (if any) to the City, and the chosen Offeror will include an assessment phase in their project plan to determine the most suitable configurations at the hosted site.

The City maintains two enterprise data centers within the same geographic region. These data centers are connected via a redundant, geographically diverse Dense Wave Division Multiplexing (DWDM) network using Cisco switches that provide 10 Gbps Ethernet and 8 Gbps fiber channel connectivity. Data is backed up at a frequency of weekly full backups and daily incremental backups.

Both public and private IP addresses are used by the City in their production IT environment. Public IP addresses are used to present IT services to the public Internet and external organizations. Private IP addresses are used for internal communication between infrastructure systems and applications. Since duplicate IP addresses will exist at the disaster recovery site, the vendor shall not advertise themselves to the public Internet or external organizations as a preferred IP route path to these same IP addresses until it is validated that the city's production IT environment no longer exists.

The City's server and storage infrastructure is comprised of a traditional multi-tiered storage architecture sourced from multiple vendors and connected via fiber channel switches to server infrastructure. The current City standard for x-86 blade server hardware is Cisco UCS as documented in ITS Standard si1.8. The City's Private Cloud Services Infrastructure is operated on an



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

infrastructure comprised of ninety-six (96) Cisco Unified Computing Systems (UCS) B200-M Series servers. The total amount of storage available at each of the two data centers is approximately 382 TB and approximately 223 TB. Some information stored in these data centers is replicated for business continuity purposes and some is unique to that data center.

The current City standard for a hypervisor is VMware as documented in ITS Standard si1.8. The current version of VMWare ESXI in use is 6.7.2.

Microsoft Windows Server 2012 and 2016 and Red Hat Enterprise Linux (RHEL) versions 6 and 7 are the current City standards for operating systems as documented in ITS Standard si1.3. Systems currently running Microsoft Windows Server 2008 and older operating systems are actively being upgraded to Windows Server 2012 or 2016. Systems currently running Unix operating systems other than RHEL 6 or 7 are also being replaced as possible. The remaining non-RHEL implementations include Oracle, Linux, Solaris and AIX. The non-RHEL instances of Linux are restricted to vendor appliances and embedded OSes. For detailed information on the number of servers and Operating Systems to be covered by the DRaaS solution, please see Attachment A. For detailed information regarding servers and storage memory and CPU usage by host, please see Attachment A.

The City's storage environment architecture consists of a traditional multi-tiered storage architecture. The highest performing storage is flash at Tier 0 with each subsequent tier providing a lower level of performance. The City currently utilizes Commvault version 11 sp 17.25 as its backup/restore solution to back up approximately 400 TB of data. The storage architecture will change dramatically in the near future. We will have only 2 tiers, with backup data retained for 5 weeks on Tier 2 Utility Storage. For detailed information regarding servers and storage memory and CPU usage by host, please see Attachment A.

3. MANDATORY MINIMUM REQUIREMENTS

3.1. Baseline Services

The City envisions that the engagement will consist of multiple phases, including Assessment, Design, Construct, Replicate, Test, and Training. These phases are supplied as a guide for Offerors to determine the appropriate level of services required to implement the proposed solution. Each phase is summarized below, with more detailed requirements for each phase set forth in Attachment B.



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3.1.1. Assessment

The Offeror will provide assessment services on the City of Phoenix environment that will produce the data required in the development of a cloud based Disaster Recovery project and implementation plan. Assessment shall include but not be limited to:

- Application / Service Process Analysis
- Application and Service Dependency Mapping
- Logical Data Connections Analysis
- Data Network Analysis
- Data Storage and Replication Analysis
- End State Requirements for all services (infrastructure, compute, network, data) identifying options and applicable cloud vendor service offerings.

3.1.2. Design

The Offeror will design a comprehensive cloud based Disaster Recovery solution(s) that will include but not be limited to:

- Access to the contracted applications/services in the event of a disaster.
- Replication of data to ensure information is current.
- A solution that can coexist and integrate with other cloud DR solutions.
- Capabilities to monitor system.
- Alerting of issues and events.

3.1.3. Construct

Under the contract resulting from this RFP, the Offeror will construct the approved cloud-based Disaster Recovery solution(s) for which the Offeror will provide the following services:

- Infrastructure & Support Applications required to support the selected cloud-based Disaster Recovery solution(s)
- Orchestration & Automation services that will simplify failover testing and actual disaster recovery declaration & execution

3.1.4. Replicate

Under the contract resulting from this RFP, the Offeror will also provide replication services. The Offeror will successfully replicate the contracted applications/services. The replication will include but not be limited to:

- Initial replication of applications and related databases.
- Integration or installation of dependencies identified as a result of the assessment.



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Under the contract resulting from this RFP, the Offeror will design and configure replication of data from the City's systems to the hosted solution to meet the RPO needs of the business as outlined in Attachment A. The replication of data will include but not be limited to:

- Replicating data in a secure manner.
- Replicating data at agreed upon scheduled frequencies.
- Installing or configuring alerts that will notify City representatives if replication fails.

3.1.5. Test

Under the contract resulting from this RFP, the Offeror will ensure adequate testing occurs to ensure each component of the designed system is working properly. Testing will include but not be limited to:

- Development of test scripts.
- Testing of infrastructure and design.
- Testing and validating applications/services were properly replicated.
- Testing and validating the replication of data is working properly.
- Testing and validating that alerts are working properly.
- Development of runbooks for initiating a disaster and spinning up services.


3.1.6. Training

Under the contract resulting from this RFP, the Offeror will provide training. Training will include but not be limited to:

- Training on declaration of disaster process.
- City of Phoenix technical team training and application support team training on DRaaS system and the tasks for which they are responsible as outlined in the RACI charts provided.
- Source code for scripts and runbooks with appropriate commenting throughout the files

3.2. Testing

Offerors must propose, at a minimum, a 72-hour time slot for the first test. This first test must occur no later than March 2022. Offerors must additionally propose, at a minimum, one complete successful DR tests per year and two application specific successful DR tests per year at the discretion of the City.

	SECTION V – SCOPE OF WORK	CITY OF PHOENIX
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3.3. DRaaS Data Center Location

The recovery site(s) must be far enough from the City of Phoenix data centers so as not to be subject to the same physical or environmental threats and the recovery site(s) must not share critical communication or power providers with the City.

4. DETAILED REQUIREMENTS

4.1. Solution Requirements

Within Attachment B, the tab labeled DRaaS Solution Rqmts details the City’s requirements for the DRaaS solution. Solution Requirements include:

- Support Requirements
- Security Requirements
- Storage Requirements
- Network Requirements
- Infrastructure Requirements
- Tools/Applications Requirements

Solution requirements in Attachment B are noted as **M for Mandatory**, **D for Desired**, or **O for Optional**. Mandatory, Desired, and Optional requirements utilize the same verbiage defined in Section II (1), DEFINITION OF KEY WORDS USED IN THE SOLICITATION.

Using the DRaaS Solution Rqmts worksheet, Offerors will select a response to each requirement from the drop-down menu provided. Offerors must select a response for every requirement to be considered responsive. For each requirement, Offerors must include a brief narrative explanation describing how the proposed solution satisfies the requirement. Offerors may cite reference material included in their proposal package to demonstrate the proposed solution meets the requirement or to further substantiate their response. **Note that URLs are not acceptable**. All reference material must be submitted with the Offeror’s bid package.

4.2. Onboarding Requirements

Within Attachment B, the tab labeled DRaaS Onboarding Rqmts details the City’s requirements for the DRaaS onboarding engagement. The City envisions the onboarding engagement will consist of multiple phases— Assessment, Design, Construct, Replicate, Test, and Train—as set forth in Section IV, subsection 3.1. The specific requirements for each phase are detailed in Attachment B.

Solution requirements in Attachment B are noted as **M for Mandatory**, **D for Desired**, or **O for Optional**. Mandatory, Desired, and Optional



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requirements listed below utilize the same verbiage defined in Section II (1), DEFINITION OF KEY WORDS USED IN THE SOLICITATION.

Using the DRaaS Onboarding Rqmts worksheet, Offerors will select a response to each requirement from the drop-down menu provided. Offerors must select a response for every requirement be considered responsive. For each requirement, Offerors shall include a brief narrative explanation describing how the proposed solution satisfies the requirement. Offerors may cite reference material included in their proposal package to demonstrate the proposed solution meets the requirement or to further substantiate their response. **Note that URLs are not acceptable.** All reference material must be submitted with the Offeror’s bid package.

5. EVALUATION CRITERIA

In accordance with the Administrative Regulation, 3.10, Competitive Sealed Proposal awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in the relative order of importance and more details are provided in Section IV – Scope of Work.

A.	DRaaS Solution Requirements	350 POINTS
B.	Method of Approach	300 POINTS
C.	Pricing	200 POINTS
D.	Qualifications and Experience	150 POINTS

TOTAL AVAILABLE POINTS: 1000 Maximum

5.1. DRaaS Solution Requirements

The selected and contracted Offeror must provide a cloud based DRaaS solution that meets or exceeds a set of minimum business and technical requirements, as detailed in Attachment B, worksheet DRaaS Solution Rqmts. The Offeror shall respond to Attachment B, worksheet DRaaS Solution Rqmts, as directed in the spreadsheet. DRaaS Solution Requirements evaluation will be based on the Offeror’s demonstrated ability of the proposed solution’s functional fit to the City’s requirements.

5.2. Method of Approach

The selected and contracted Offeror will implement and support a cloud based DRaaS solution within agreed upon timeframes as specified in the resultant Contract. The City of Phoenix aims to select and contract with experienced Offerors capable of executing an efficient DRaaS implementation project. Method of Approach evaluation will be based on the Offeror’s demonstrated ability to assess, design, construct, replicate, test, document, and maintain a DRaaS solution as well as train City staff on



SECTION V – SCOPE OF WORK

CITY OF PHOENIX

the interaction necessary on the City's part to utilize the system. The requirements are described in Attachment B, worksheet DRaaS Onboarding Rqmts.

5.3. Pricing

The City of Phoenix prefers granular, transparent pricing. Responses must include detailed, line item, unit-based pricing (e.g., price per VM, per GB storage, fee for managed services, etc.). Offerors should submit Attachment C, Pricing Template, that outlines the costs for prework, base implementation, DR Plan and Runbook creation, Ongoing Operational Support, Recovery Location Costs, IT Resilience Orchestration Costs, Monthly Recurring Compute Costs, Monthly Recurring Storage Costs, Monthly Recurring Network Costs, Exercises, Declaration: Potential Failover and Failback costs, and Exit Costs.

The City of Phoenix requires a term of three years with one-year options for extension in years four and five. Line item, unit-based pricing provided must not increase during the term of the contract. If servers are added or removed during the term of the contract, the pricing provided shall be used to determine the adjusted rate.

Additional instructions related to pricing are provided in Attachment C, Pricing Template.

5.4. Qualifications, Experience and References

Offeror's corporate alignment, current customers, references (see Attachment B, worksheet Customer Reference Table), and proposed project team will be evaluated to determine if the Offeror has demonstrated that they have the ability and relevant experience in assessing, designing, constructing, replicating, testing, and maintaining DRaaS solutions of similar size and complexity.

6. DEFINITION OF TECHNICAL TERMS USED IN THE SOLICITATION:

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

"AES" The Advanced Encryption Standard is a symmetric block cipher implemented in software and hardware throughout the world to encrypt sensitive data.

"AWS" Amazon Web Services is Amazon's public cloud computing platform.

"Azure" Microsoft Azure is Microsoft's public cloud computing platform.



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“CJIS”	Criminal Justice Information Services is a division of the United States Federal Bureau of Investigation. The CJIS Division was established in February 1992 to serve as the focal point and central repository for criminal justice information services in the FBI. CJIS Requirements refers to the information security requirements for systems used by criminal justice agencies.
“DWDM”	Dense Wave Division Multiplexing. DWDM is a technology which multiplexes multiple optical carrier signals on a single optical fiber by using different colors of laser light to carry different signals. The City’s DWDM system provides multiple 10 gigabit Ethernet and 8 gigabit Fiber Channel between the City’s Enterprise Data Centers located at ITOC and IO.
“Ethernet”	A family of computer networking technologies for local area networks and metropolitan area networks.
“Gartner”	Gartner is an information technology (IT) research and consultancy company. The company's two main data visualization and analysis tools are Gartner Magic Quadrants and the hype cycle.
“GB”	Gigabyte is a unit of digital information storage used to denote the size of data and is equivalent to 1,000 megabytes.
“Gbps”	Gigabits per Second is a measure of bandwidth on a digital data transmission medium.
“HIPAA”	Health Insurance Portability and Accountability Act.
“HITECH”	The Health Information Technology for Economic and Clinical Health Act is part of the American Recovery and Reinvestment Act of 2009 and was created to motivate the implementation of electronic health records and supporting technology. HITECH expanded the scope of privacy and security protections available under HIPAA by increasing the potential legal liability for non- compliance and it providing for more stringent enforcement.



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CITY OF PHOENIX

“Hypervisor”	A hypervisor is an application that separates a computer’s operating system and applications from the underlying physical hardware, allowing a physical host to operate multiple virtual machines as guest to maximize the effective use of computing resources.
“IaaS”	Infrastructure as a service (IaaS) is a form of cloud computing that provides virtualized computing resources over public or private infrastructure.
“IP”	Internet Protocol is the principal communications protocol in the Internet protocol suite for relaying datagrams across network boundaries.
“ITOC”	Information Technology Operations Center is a City owned facility in which the City houses one of its Enterprise Data Centers.
“OS”	Operating System is software that communicates with the hardware and allows other applications to run.
“RHEL”	Red Hat Enterprise Linux.
“RPO”	Recovery Point Objective. RPO limits how far to roll back in time, and defines the maximum allowable amount of lost data measured in time from a failure occurrence to the last valid backup.
“RTO”	Recovery Time Objection. RTO refers to how much time an application can be down without causing significant damage to the business. RTO
“SME”	Subject Matter Expert.
“SQL”	Structured Query Language is a special-purpose programming language designed for managing data held in a relational database management system.
“TB”	Terabyte is a unit of digital information storage used to denote the size of data and is equivalent to 1,000 gigabytes.
“UCS”	Unified Computing System is a blade server technology manufactured by Cisco Systems.


	SECTION V – SCOPE OF WORK	CITY OF PHOENIX
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“VM”

Virtual Machine is a software program or operating system that not only exhibits the behavior of a separate computer but is also capable of performing tasks such as running applications like a separate computer.

“VMware”

A software company that provides virtualization software and services.

	SECTION VI – SUBMITTALS	CITY OF PHOENIX
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SECTION VI – SUBMITTALS

Submittal forms provided on the following pages include:

- Payment Terms & Options
- Offer
- Acceptance of Offer
- Disclosure Form

Please note that these forms are just one portion of what Offerors are required to submit to the City to be considered fully responsive for the purposes of this RFP. For detailed instructions on all information and documentation required when responding to this RFP, please refer to Section I (Instructions), subsection 12 (Submission of Offer).

Offeror Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX


1. PAYMENT TERMS & OPTIONS

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

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

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

Offeror Name: _____

	SECTION VI – SUBMITTALS	CITY OF PHOENIX
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2. OFFER

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

Arizona Sales Tax No. _____
 Use Tax No. for Out-of-State Suppliers _____
 City of Phoenix Sales Tax No. _____
 Arizona Corporation Commission File No. _____

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

Enter City's Registration System ID Number Located at City's eProcurement website (see SECTION I – INSTRUCTIONS - CITY'S REGISTRATION)	
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Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

 Authorized Signature Date

 Verify Name and type of company (LLC, Inc., Sole Proprietor) Printed Name and Title (Member, Manager, President)

Address _____
 City, State, and Zip Code _____
 Telephone Number _____
 Company's Fax Number _____
 Company's Toll Free # _____
 Email Address _____

Offeror Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

3. ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the material(s) or service(s) listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc. and the Contractor’s Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No._____. The Contractor has been cautioned not to commence any billable work or provide any material or service under this contract until Contractor receives purchase order, or contract documentation.

CITY OF PHOENIX
A Municipal Corporation
Ed Zuercher, City Manager

Steen H. Hambric
Acting Chief Information Officer

Attest:

_____ this ____ day of _____ 2021
City Clerk

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

Offeror Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

4. DISCLOSURE FORM

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

1. Name of person submitting this disclosure form.

First	MI	Last	Suffix
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2. Contract Information

Solicitation # or Name:

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

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

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

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

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

Offeror Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

7. Disclosure of conflict of interest:

A. City Code Section 43-34

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

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

I am not aware of any conflict(s) of interest under City Code Section 43-34.

I am aware of the following potential or actual conflict(s) of interest:

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

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

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

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

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

I am aware of the following conflict(s) of interest:

Offeror Name: _____



SECTION VI – SUBMITTALS

CITY OF PHOENIX

8. Acknowledgements

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

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

B. Fraud Prevention and Reporting Policy

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

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

OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

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

Offeror Name: _____