



**CITY OF PHOENIX**

**PUBLIC WORKS DEPARTMENT  
Crystal Ramirez  
Procurement Officer  
200 W. Washington St.  
Phoenix, AZ 85003  
(602) 495-3606  
Crystal.ramirez@phoenix.gov**

**REQUEST FOR PROPOSAL  
RFP 22-SW-014 (CR)**

**27<sup>th</sup> Ave Materials Recovery Facility Equipment Replacement  
REQUIREMENTS CONTRACT**

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

### **SOLICITATION RESPONSE CHECK LIST**

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

- All forms have been completed and signed, including Solicitation Disclosure form.
- All Submittals are included.
- Reviewed and verified prices offered.
- Checked price extensions and totals.
- Included any required drawings or descriptive literature.
- If required, checked and included the amount of the offer surety.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included the specified number of copies of the offer as indicated in Submittal section.
- Included signed addenda, if any.
- Addressed the mailing envelope to the Procurement Officer on the solicitation front page, at the address listed.
- The mailing envelope clearly shows your company name and address, the solicitation number, solicitation title and the offer opening date.

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



# SECTION I - INSTRUCTIONS

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## 1. DESCRIPTION – STATEMENT OF NEED:

1.1 The City of Phoenix invites sealed offers for **27th Ave Materials Recovery Facility Equipment Replacement and possible Operating Service** for a period commencing on or about **January 1, 2022**, in accordance with the specifications and provisions contained herein.

The primary purpose of this Request for Proposal is to award a contract for the removal and replacement of the existing recycling equipment at the 27th Ave. Material Recovery Facility (MRF), located at 3060 South 27th Avenue.

### **GROUP 1 (MANDATORY)- EQUIPMENT PROCESSING SYSTEM.**

The secondary purpose is an optional Request for Proposal for operating Proposer’s equipment after completion of the design and build performed during the Equipment Term.

### **GROUP 2 (OPTIONAL) - MRF OPERATIONS & MATERIALS MARKETING.**

The City reserves the right to not award Group 2 proposals.

1.2 This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.

1.3 Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

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

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

## 3. SCHEDULE OF EVENTS:

ACTIVITY (All times are local Phoenix time)	DATE	LOCATION
Solicitation Issue Date	Friday, August 13, 2021	<a href="https://solicitations.phoenix.gov/">https://solicitations.phoenix.gov/</a>
Pre-Offer Conference	Thursday, August 26, 2021 10:00 AM	<b>In Person:</b> 27 <sup>th</sup> Ave Transfer Station 3060 S. 27 <sup>th</sup> Avenue Phoenix, AZ 85009 Training Room



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		<b>Via Web Ex</b> Join by phone: +1-415-655-0001 US Toll Access code: 146 764 0692
<b>Site Visit</b>	Thursday, August 26, 2021 – Immediately following the Pre-Offer Conference	27th Ave Transfer Station 3060 S. 27th Avenue Phoenix, AZ 85009
<b>Written Inquiries Due Date</b>	Friday, September 3, 2021, 9:00 AM	Email inquiries to: <b>crystal.ramirez@phoenix.gov</b>
<b>Offer Due Date</b>	Wednesday, September 29, 2021 1:00 PM  <b>LATE BIDS WILL NOT BE ACCEPTED</b>	<b>See SECTION I – INSTRUCTIONS, Item 12, SUBMISSION OF OFFER</b>  The public will be able to call the WebEx phone number noted below and listen to the Bid Opening meeting live:  +1-415-655-0001 US Toll Access code: 146 126 2717

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:



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

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

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Internet access is available at all public libraries. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix Public Works Department, Procurement Division, 200 W. Washington St., 7<sup>th</sup>



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Floor, Phoenix, AZ. It is the Offeror's responsibility to check the website throughout the entire solicitation period up to city council award, read the entire solicitation, and verify all required information is submitted with its offer.

### 6. EXCEPTIONS:

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

### 7. INQUIRIES:

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

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

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

### 8. ADDENDA:

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

### 9. BUSINESS IN ARIZONA:

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

### 10. LICENSES:

If required by law for the operation of the business or work related to this Offer, 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.



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

### 12. SUBMISSION OF OFFER:

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

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

- a. Offeror's Name
- b. Offeror's Address (as shown on the Certification Page)
- c. Solicitation Number
- d. Solicitation Title
- e. Offer Opening Date

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

**For In-Person and Carrier Delivery:** Offers will be received at City of Phoenix City Hall located at 200 W. Washington St, 1st floor, Atrium, Phoenix, AZ 85003. The Atrium is just beyond the security checkpoint. The drop-off box is marked Public Works Department. Delivery must be made during normal business hours (8:00 am – 5:00 pm, local Phoenix time, Monday – Friday) before the solicitation due date and time. Offers must be clearly marked on the outside of the package as designated in the solicitation.

**For Courier/Mail Delivery:** City of Phoenix, City Hall, 200 W. Washington St. 7th Floor, Phoenix, AZ 85003

### 13. WITHDRAWAL OF OFFER:

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

### 14. OFFER RESULTS:

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





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The City will post a preliminary offer tabulation on the City's website, <https://solicitations.phoenix.gov/Awards> within five calendar days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.

### 15. PRE-AWARD QUALIFICATIONS:

- **GROUP 1 – EQUIPMENT PROCESSING SYSTEM** offeror must have been in operation a minimum of five (5) years. The Offeror's normal business activity during the past five (5) years will have been for providing the goods or services in this solicitation. (This information must be provided in Section VI Submittals, Years in Business and Customer Reference Listing of this solicitation.)
- **GROUP 2 – MRF OPEARTIONS & MATERIALS MARKETING** offeror must have been in operation a minimum of one (1) years. The Offeror's normal business activity during the past year will have been for providing the goods or services in this solicitation. (This information must be provided in Section VI Submittals, Years in Business and Customer Reference Listing of this solicitation.)
- **Financial Position.** The applicant shall demonstrate that he has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means sufficient to meet the estimated cash flow requirements of the contract.
- **Equipment.** Offeror will own or have assured access to (through hire, lease, purchase agreement, availability of manufacturing equipment, or other means) the following key items or equipment in full working order, and must demonstrate that, based on known commitment, they will be available for use in the proposed contract. The applicant may also list alternative equipment that it would propose for the contract, together with an explanation of the offer.
- **Personnel Capabilities.** The applicant shall provide suitably qualified personnel to fill the following positions. For each position the applicant will supply information in Section VI Submittals on a prime candidate and an alternate, each of whom should meet the experience requirements specified below:

<i>Position</i>	<i>Total experience</i>	<i>In similar works</i>	<i>As manager of similar works (years)</i>
<i>Project</i>			
<i>Other</i>			
<i>Other</i>			



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Other			
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## 16. AWARD OF CONTRACT:

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

**16.2** Factors that may be considered by the City include:

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

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

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

## 17. CITY’S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:

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

## 18. SOLICITATION TRANSPARENCY POLICY:

**18.1** Commencing on the date and time a solicitation is published, potential or actual offerors or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff,



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except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until the resulting contract(s) are awarded to all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

- 18.2** As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation.
- 18.3** Offerors may discuss their offer or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.
- 18.4** With respect to the selection of the successful Offerors, the City Manager and City Manager's Office will continue the past practice of exerting no undue influence on the process.
- 18.5** This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 18.6** "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

### **19. PROTEST PROCESS:**

- 19.1** Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines



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that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.

- 19.2** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 19.3** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination
- 19.4** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City's website to award the contract(s) to an Offeror(s). Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City's full and final discretion.
- 19.5** All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
- 19.5.1 Identification of the solicitation number;
  - 19.5.2 The name, address and telephone number of the protester;
  - 19.5.3 A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
  - 19.5.4 The form of relief requested; and
  - 19.5.5 The signature of the protester or its authorized representative.
- 19.6** The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43) and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

### **20. PUBLIC RECORD:**

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process, information



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

**21. LATE OFFERS:**

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

**22. RIGHT TO DISQUALIFY:**

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

**23. SITE INSPECTION:**

A one-time voluntary walk-through site inspection tour will be conducted at the date and time indicated for the location noted in the Schedule of Events. Submission of an offer will be prima facie evidence that the Offeror did, in fact, make a site inspection and is aware of all conditions affecting performance and offer prices.

**24. PERFORMANCE BOND:**

**REQUIRED IN GROUP 1 OFFER SUBMITTAL**

**GROUP 1 – EQUIPMENT PROCESSING SYSTEM** a performance surety in the amount of Eighteen Million Dollars (\$18,000,000) 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, letter of credit, Certificate of Deposit, cashier's check, certified check or money order. Personal or company checks are not



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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. If a Letter of Credit, the City only accepts from banks rated "A" or better by Moody's or Standard & Poor. Banks customarily maintain a standard format for Letters of Credit; the bank and format will need to be submitted to the City. Approvals from several departments may be required before final acceptance of the letter of credit or bond; this process may take up to 15 days. 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.

**\*REQUIRED THIRTY (30) DAYS PRIOR TO ENDING OF THE EQUIPMENT TERM.**

**GROUP 2 – MRF OPERATIONS & MATERIALS MARKETING** a performance surety in the amount of Two Million Dollars (\$2,000,000) 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, letter of credit, Certificate of Deposit, 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. If a Letter of Credit, the City only accepts from banks rated "A" or better by Moody's or Standard & Poor. Banks customarily maintain a standard format for Letters of Credit; the bank and format will need to be submitted to the City. Approvals from several departments may be required before final acceptance of the letter of credit or bond; this process may take up to 15 days. 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.

**25. CONTRACT AWARD:**

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

**26. EVALUATION OF COMPETITIVE SEALED OFFERS:**

Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.



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### 27. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

- 27.1** Offers will be reviewed for documentation of qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.
- 27.2** 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.
- 27.3** 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.
- 27.4** Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible contractor. Responsibility includes the Offeror's integrity, skill, capacity, experience, financial ability, and facilities for conducting the work to be performed.
- 27.5** The Procurement Officer will review each Offer to determine if the Offeror is responsible and responsive. The City's determination as to whether an Offeror is responsible will be based on all information furnished by the Offeror, interviews (if any), and information received from Offeror's references, including information about Offeror's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.
- 27.6** 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.

### 28. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE:

The primary purpose of this RFP is to request proposals through GROUP 1 (MANDATORY)- EQUIPMENT PROCESSING SYSTEM for the removal and replacement of the existing recycling equipment at the 27th Ave. Material Recovery Facility (MRF),





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located at 3060 South 27th Avenue. The evaluation panel will only review GROUP 1 submittals.

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.

GROUP 2 (OPTIONAL) - MRF OPERATIONS & MATERIALS MARKETING Offers will only be evaluated after GROUP 1 Offers have been determined to be within the Competitive Range. The City reserves the right to not award Group 2 proposals.

### **29. OFFERS NOT WITHIN THE COMPETITIVE RANGE:**

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

### **30. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:**

**30.1** 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.

**30.2** 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).

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





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**30.4** 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.

**30.5** Offers for Group 2 will not be evaluated until after the Group 1 Offers have been evaluated and after interviews are conducted if the City deems interviews are necessary.

### **31. BEST AND FINAL OFFERS (BAFO):**

**31.1** 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.

**31.2** 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.

**31.3** The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.

**31.4** The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.



## SECTION II – STANDARD TERMS AND CONDITIONS

CITY OF PHOENIX

### 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:

“Agreement” Means the contract awarded pursuant to this Request for Proposal for the Equipment Term only or for the Equipment Term and the Operations Term together with all Exhibits attached thereto, written material incorporated by reference, and amendments, if any.

“Aluminum” Means items made of the metallic substance or element known as aluminum such as lawn chairs, building trim. pie plates. TV dinner trays, foils, food and beverage containers, screen doors, window frames, and small appliances.

“Annual Sampling” Means the annual sampling of the recycling process system to be conducted annually.

“A.R.S.” Arizona Revised Statute

“Aseptic Packaging” Means packaging type materials with polycoat on both sides and printing on the polyethylene such as gable-top containers



## SECTION II – STANDARD TERMS AND CONDITIONS

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(examples are milk cartons, whipping cream cartons, chocolate milk cartons, and orange juice cartons), and drink boxes (examples are fruit juice, punch drinks, chocolate drinks, and soy milk).

"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.
"Chipboard"	Means single layer cardboard materials such as dry food boxes (examples are cereal, cookies, cake mix, crackers, rice, and instant food types) and other boxes (examples are shoe, shirt, personal hygiene) with unbound liners; writing tablet backs, beverage cartons such as twelve pack or cases, and paper towel and toilet tissue rolls. Detergent and soap boxes and shall be excluded.
"City"	The City of Phoenix
"Commingled"	Means recyclable materials that have been segregated from non-recyclable waste at the source of generation for the purpose of recycling, but that have not been sorted into different types of recyclable materials.
"Commodity Broker"	Means any firm that purchases or accepts recovered materials.
"Consulting Engineer"	Means any engineer or firm of engineers that the City retains to perform engineering services related to the facility.
"Consumer Price Index (CPI)"	Means the West Urban Size A Consumer Price Index for All Urban Consumers (All Items, Base Period 1982-84=100), published by the Bureau of Labor Statistics, United States Department of Labor.
"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.
"Contract Month"	Means the full calendar month beginning with the facility operational date and each subsequent month thereafter.



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“Contract Representative”	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.
"Corrugated or (OCC)"	Means cardboard with a waffle type layer between the interior and exterior layers of the walls such as appliance boxes and packaging boxes used to ship merchandise to retail stores, supermarkets, department stores, and factories.
"Cost Substantiation"	Means information provided by Contractor, setting forth the amount of such cost, having attached thereto copies of invoices from all third parties providing services or materials for which cost recovery is requested and stating that such cost (i) was properly chargeable to the City by describing the event giving the Contractor the right to cost substantiation, and (ii) is at an arm's length and competitive price, including direct and indirect costs and profit allowance, for the service or materials supplied, which information shall be subject to testing and examination by the City as deemed appropriate in the circumstances.
“Days”	Means calendar days unless otherwise specified.
"Delivered Materials"	Means all incoming materials delivered to the facility by the City or others delivering to the facility who have been approved by the City.
“Deputy Finance Director”	The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.
“Disposal Costs”	Means the City's posted standard tipping fee for commercial mixed loads. "Dollars" Means United States dollars.
"Effective Date"	Means the date provided above as the date this Agreement is made and entered into between the Parties.
“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



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	contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
“Equipment Term”	Means that portion of the Agreement under which the work of removal and replacement of the existing recycling equipment is performed.
“Facility”	Means that portion of the transfer station/MRF, that is operated and maintained by Contractor for non-permanent storage and Processing of Recyclable Materials in the manner prescribed herein, and for Marketing Recovered Materials to Material Markets.
“Facility Operational Date”	Means the date on which Contractor commences operations of the facility to accept, process and market recyclables.
“Fines”	Means recyclable materials or non-recyclable waste which is smaller than two and one- half inches in diameter.
“Fiscal Year”	Means July 1 <sup>st</sup> through June 30 <sup>th</sup> .
“Glass”	Means all glass food and beverage containers, whether clear, green, brown, such as condiment jars, salad dressing containers, baby food jars, liquor bottles, and juice bottles, including broken glass.
“Hazardous Waste”	Means (a) any substance regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. Seq., the Toxic Substance Control Act, 15 U.S.C. 2601 et. Seq., the Federal Insecticide, Fungicide and Rodenticide Control Act, 7 U.S.C. 136 et. Seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251 et. Seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., or the Arizona Environmental Quality Act, Arizona Revised Statutes Sections 49- 921, et. Seq., as each such law may be amended from time to time, and the regulations promulgated thereunder, and any analogous or succeeding federal, state or local law, rule or regulation and any regulations promulgated thereunder; (b) any other material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time cannot be held, stored or processed at the facility because it is hazardous to health, safety or the environment; and (c) any material which would



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	result in the residue being a hazardous waste under (a) or (b) above.
“HDPE-Natural and HDPE-Colored”	Means high-density polyethylene containers such as milk and water jugs, laundry detergent containers, bleach containers, juice containers, and other similar containers.
“Holiday(s)”	Means the holidays observed by the City, specifically New Year’s Day, Martin Luther King Jr. Day, Cesar Chavez’s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day and the day after, and Christmas Day, which are subject to change.
“Hot Load”	Means any load of materials delivered to the facility that is emitting smoke, fire or fumes and that may be in imminent danger of fire or explosion.
“Household Hazardous Waste”	Means household waste that would otherwise be classified as hazardous waste if it were not excluded as a hazardous waste under 40 CFR section 261.4(b).
“Inflation Factor”	“Inflation Factor”
“Kraft Bags or Kraft Paper”	means unbleached brown paper grocery or shopping bags.
“Market” or “Marketing”	Means the act or process of promoting and selling recovered materials for purchase or final consumption by material markets.
“Material Markets”	Means the markets for recovered materials that meet market specifications and that may be purchased by Commodity Brokers.”
“Medical Waste”	Means medical waste as defined in Arizona Revised Statute § 49-701, including medical sharps and other biohazardous medical waste as defined in any rules promulgated by the Arizona Department of Environmental Quality.
“Mixed Rigid Plastics”	Means all plastic containers with SPI code numbers 3-7, as well as injection molded HDPE such as tubs, buckets, toys and laundry baskets.
“Mixed Scrap Metals”	Means materials, the majority of which are composed of aluminum or ferrous metals such as toasters or other small appliances, metal toys, car wheels, hubcaps, piping, garden tools, bicycles and bed frames.



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“Mobile Equipment”	Means all of the rolling stock acquired and used by Contractor at the facility. “Newsprint or ONP” Means paper that has been used for the publication of daily, weekly or special edition newspaper including advertising and inserts.
“Non-Recyclable Waste”	Means all materials or substances, not including recyclable materials, discarded or rejected as being spent, useless, or worthless to the owner at the time of such discard or rejection, including but not limited to garbage, refuse, and rubbish.
“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.
“Operating Day”	Means any day that the facility is open for the acceptance and/or processing of recyclables.
“Operations Term”	Means the optional portion of the Agreement for the operations and materials marketing of the MRF.
"Other Paper"	Means the following paper items: white and colored ledger, computer paper  {CPO), glossy, office files, coated ledger, paperboard, envelopes (except plastic windows or self- adhesive), construction, printing, writing, cardstock, groundwood, junk mail, chipboard, wet-strength packaging, telephone books, and magazines.
"PET-High Grade"	Means bottles made of polyethylene terephthalate, such as soda bottles and water bottles of various sizes.
"Phoenix Recycling Program"	Means the City's recycling program which includes separate blue containers provided to residents and drop-off bins in which commingled recyclables are placed. It is recognized that non-recyclable waste will be inadvertently placed into the drop-off bins and blue containers.
"Planned Outage"	Means the partial or temporary suspension of processing recyclable materials at the facility because of maintenance,



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inspections, testing, rebuilding or repairs of any portion thereof.

"Polystyrene or PS"

Means food service grade products made from 100% polystyrene plastic such as egg cartons, meat trays, cups, and rigid packing blocks bearing the SP! #6 code. Cutlery, polystyrene "peanut" packaging material, and rigid containers such as cottage cheese, yogurt tubs, and clear salad containers shall be excluded.

"Process, Processed, or Processing"

Means an operation or series of operations, whether involving equipment or manual labor, that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares recyclable materials to meet market specifications as a recovered material on the material markets and extracts rejects for disposal. Processing begins at the time delivered materials are deposited on the Contractor's portion of the tip floor areas of the facility and ends when the recovered materials are accepted and purchased by material markets.

"Processing Area"

The floor area located inside the facility where recyclables are stored prior to sorting (certain tip floor areas), the areas where the recycling process system is located, and the areas where recovered materials are temporarily stored and loaded for transport.

"Proposer/Offeror"

Means a vendor who responds to the Request for Proposal.

"Record Drawings"

means drawings, diagrams, schematics, instructions and other literature provided by equipment suppliers, and as-built drawings developed as a result of construction of the processing equipment.

"Recovered Materials"

Recyclables which have been processed on the recycling process system at the facility to market specifications for sale in the material markets.

"Recyclable Materials"

Materials derived from various sources for delivery to the facility pursuant to this contract, that continue to have useful physical or chemical properties: Newsprint (ONP), Aluminum, Aseptic Packaging, Other Paper, Corrugated (OCC), Glass, Ferrous Metals, UBC, HDPE - Natural and HDPE - Colored, Mixed Rigid Plastics, Kraft Bags, Phone Books, PET - High Grade, and such other materials as the City may designate as recyclable materials.





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"Recyclables"	Commingled recyclable materials collected by the City or its contractors from residential service units as provided under Chapter 27, Solid Waste, of the City Code and pursuant to the Phoenix Recycles Residential Recycling Program, or other materials of similar composition which may be accepted at the facility as approved by the City.
"Rejects"	Non-Recyclable waste other than Fines that are delivered to the facility, which are segregated from recyclable materials during Processing.
"Residue"	Recyclable materials other than Fines that are delivered to the facility, which should have been processed and marketed, but which were not processed and/or marketed by Contractor and were subsequently removed or diverted from the facility and disposed of as solid waste.
"Service Fee"	The annual fee payable in monthly installments for the performance by Contractor of its obligations in relation to the Recycling Process System under this Agreement.
"Site"	Parcel of land on which the Transfer Station is located, including the facility and easements and rights of way.
"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.
"State"	State of Arizona
"Suppliers"	Firms, entities or individuals furnishing goods or services to the City.
"Tin Cans"	Steel cans or bi-metal cans such as food containers. Aerosol cans possibly containing non-hazardous residue shall be included and processed as tin cans provided, they are acceptable to material markets.
"Ton(s)"	Short ton of two thousand (2,000) U.S. pounds. Tons per day.



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“TPH”	Tons Per Hour
"Transfer Station"	Real property, buildings and equipment owned by the City, used for transfer operations and located at the Transfer station/MRF.
“UBC”	Means used Aluminum beverage cans but does not include bi-metal cans.
“Vendor or Seller”	A seller of goods or services.

### 2. CONTRACT INTERPRETATION:

**2.1. APPLICABLE LAW:** This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.

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

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

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



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

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

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

**2.6. PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

### 3. CONTRACT ADMINISTRATION AND OPERATION:

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

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

Any contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed



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within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.

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

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

**For a Contractor with more than 35 employees:** Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar



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working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements or subleases of this Agreement entered into by supplier/lessee. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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### 4. COSTS AND PAYMENTS:

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





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### 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 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.





## SECTION II – STANDARD TERMS AND CONDITIONS

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

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

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

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

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

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

### **7. CITY'S CONTRACTUAL RIGHTS:**

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

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



## SECTION II – STANDARD TERMS AND CONDITIONS

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- 7.3. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- 7.4. **ON TIME DELIVERY:** Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.
- 7.5. **DEFAULT:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- 7.6. **COVENANT AGAINST CONTINGENT FEES:** Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.
- 7.7. **COST JUSTIFICATION:** In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.
- 7.8. **WORK PRODUCT, EQUIPMENT AND MATERIALS:** All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.
8. **CONTRACT TERMINATION:**
- 8.1. **GRATUITIES:** The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.



## SECTION II – STANDARD TERMS AND CONDITIONS

CITY OF PHOENIX

### 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;
- 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.



## SECTION II – STANDARD TERMS AND CONDITIONS

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### 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 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.



## SECTION II – STANDARD TERMS AND CONDITIONS

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**12. NO ISRAEL BOYCOTT:**

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



## SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

### SECTION III – SPECIAL TERMS & CONDITIONS

1. **PRICE:** All priced quoted shall be firm and fixed for the length of the contract, except for annual inflation adjustments provided herein.
2. **CONTRACT TERM (WITH EXTENSIONS):** A total ten (10) year term including the Equipment Term and the Operations Term. The City will provide written notice to the Contractor 90 days before the end of the Operations Term whether it intends to exercise its option to extend.

#### **GROUP 1 – EQUIPMENT PROCESSING SYSTEM (MANDATORY)**

The Equipment Term shall be based on the Offeror's scheduled start and end date for all tasks set forth in their proposal not to exceed one (1) year.

**GROUP 2 - MRF OPERATIONS & MATERIALS MARKETING (OPTIONAL)** – If the Contractor is also awarded the GROUP 2, the Operations Term of the Agreement shall be for a period of five (5) years commencing on the termination of the Equipment Term unless sooner terminated or extended as provided herein. The City may extend the Agreement on the same terms for up to four (4) additional years in one-year increments at the city's sole discretion.

3. **EQUIPMENT/SAFETY:** The Contractor shall be responsible for providing and for the placement of barricades, tarps, plastic, flag tape and other safety/traffic control equipment required to protect its employees, the public, surrounding areas, equipment and vehicles. The flow of vehicular traffic shall not be impeded at any time during this project. The safety of the Contractor's employees and the public is of prime concern to the City, and the Contractor must take all necessary steps to assure proper safety during the performance of the Contractor.
4. **METHOD OF INVOICING:** Invoice must be emailed in .pdf format to [invoices@phoenix.gov](mailto:invoices@phoenix.gov) and must include the following:
  - City purchase order number or shopping cart number
  - Items listed individually by the written description and part number.
  - Unit price, extended and totaled.
  - Quantity ordered, back ordered, and shipped.
  - Applicable tax
  - Invoice number and date.
  - Delivery address.
  - Payment terms.
  - FOB terms.
  - Remit to address

#### **5. METHOD OF PAYMENT:**

GROUP 1 – During the Equipment Term, Contractor may be paid on a milestone basis or upon percentages of the completion of the project.

GROUP 2 – During the Operations Term, Contractor will be paid on a monthly basis in arrears.



## SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

**6. EMPLOYEE AND BUILDING ACCESS:** All personnel are to be in uniform and/or wearing identification badges that bear the employee's name and company name/logo. All personnel must be cleared by the facility security personnel prior to starting work. It is the Contractor's responsibility to provide updates and changes of personnel as necessary. Access to the building shall be directed by the City's authorized representative. Contractor's service personnel shall sign in at the security desk when arriving to service a facility and sign out when leaving.

Access to designated restricted areas is forbidden by Contractor's employees. Restricted areas are to be designated by the City's representative.

Only authorized Contractor employees are allowed on the premises of the City of Phoenix buildings. Contractor employee are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor employee and cleared to be on site.

- 7. SUPPLIER PROFILE CHANGES:** It is the responsibility of the Contractor to promptly update their profile in procurePHX at [www.phoenix.gov/procure](http://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.
- 8. AUTHORIZED CHANGES:** The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within thirty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the Deputy Finance Director or Department Director prior to the institution of the change.
- 9. 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.
- 10. 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.
- 11. 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.
- 12. 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.





## SECTION III – SPECIAL TERMS AND CONDITIONS

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Department Contact: Eduardo Rodriguez, Operations Manager

Phone: (602)495-5362

- 13. 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](http://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

- 14. ADVERTISING:** Contractor will not advertise or publish news releases concerning this contract without the prior written consent of the Deputy Finance Director or Department Director, and the City will not unreasonably withhold permission.
- 15. 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.
- 16. STRICT PERFORMANCE:** Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.
- 17. LICENSES AND PERMITS:** Contractor will keep current Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.
- 18. LIQUIDATED DAMAGES:** If the Contractor fails to deliver the supplies or perform the services within the time specified in its contract, or any extension thereof, the actual damages to the City for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, the Contractor shall pay to the City as fixed, agreed and liquidated damages for each calendar day of the delay, the amount of \$1,000. The City may terminate this contract in whole or in part as provided in the "Default" provision. In that event, the Contractor shall be liable for such liquidated damages accruing until the City may reasonably obtain delivery or performance of similar supplies and services. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond its control and without fault or negligence, as determined by the City. The Deputy Finance Director or Department Director will be the sole judge in determining the liquidated damages.





## SECTION III – SPECIAL TERMS AND CONDITIONS

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- 19. INSPECTION AND ACCEPTANCE:** Each product delivered shall be subject to complete inspection by the City prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. Ten business days will be allowed for this process. If delivered items are unacceptable and returned to the Contractor prior to acceptance, an additional five business days will be allowed for inspection when subsequent delivery occurs. It shall be the Contractor's responsibility to pick up unacceptable products, correct the deficiencies, and return the product following the corrections.
- 20. 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.
- 21. 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
- 22. 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.
- 23. PRE-CONSTRUCTION CONFERENCE:** A pre-construction conference will be held by the City's project manager prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.
- 24. 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.
- 25. 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.
- 26. TYPES OF WORK SUPERVISION:** The Contractor shall provide onsite supervision and appropriate training to assure competent performance of the work. Contractor or



## SECTION III – SPECIAL TERMS AND CONDITIONS

CITY OF PHOENIX

authorized agent will make sufficient daily routine inspections to ensure the work is performed as required by this contract.

### **27. BACKGROUND SCREENING:**

Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

**27.1** 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.

**27.2** 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.

**27.3** 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.

**27.4** 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.

**27.5** 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:



## SECTION III – SPECIAL TERMS AND CONDITIONS

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

**27.6** 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.

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.



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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.

**27.7** 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.

**27.8** 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.

**27.9** 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.

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

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



## SECTION III – SPECIAL TERMS AND CONDITIONS

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### 28. BACKGROUND SCREENING – STANDARD RISK:

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

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

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

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

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

- determining whether Contract Worker(s) are disqualified from performing work for the City for standard risk level background checks; and,
- for reviewing the results of the background check every five years; and,
- to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- Submitting the list of qualified Contract Workers to the contracting department.
- For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
- By executing this agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current. Also, by executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all background screening requirements for the standard risk background screening, and verified legal worker status, as required.



## SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

GROUP 1

EQUIPMENT PROCESSING SYSTEM

### SECTION IV – INSURANCE AND INDEMNIFICATION

The following Insurance and Indemnification requirements are applicable during the Equipment Term

CERTIFICATE OF INSURANCE IS REQUIRED TO BE SUBMITTED WITH OFFER OF GROUP 1

#### PURCHASE AND INSTALLATION OF LARGE EQUIPMENT

##### **1. DEFENSE AND INDEMNIFICATION CLAUSE:**

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

##### **2. CONTRACTOR’S INSURANCE:**

Contractor and 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 their obligations have been discharged, including any warranty periods under this Contract.

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



## SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

### GROUP 1 EQUIPMENT PROCESSING SYSTEM

Contractor may purchase additional insurance as they determine necessary.

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

#### **2.1.1. Commercial General Liability – Occurrence Form**

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

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

#### **2.1.2. Automobile Liability**

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

Combined Single Limit (CSL)	\$1,000,000
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- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.





## SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

### GROUP 1 EQUIPMENT PROCESSING SYSTEM

#### 2.1.3. Worker's Compensation and Employers' Liability

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

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

#### 2.1.4. Installation Floater

Installation Floater value must be equal to or greater than the replacement value of the equipment.

- The City of Phoenix, Contractor, subcontractor and any others with an insurable interest in the work must be Insureds on the policy.
- Coverage must be written on a Special Causes of Loss policy form with replacement cost coverage which includes losses that occur during equipment testing.
- Policy must be maintained until whichever of the following must first occur: (1) final payment has been made; or, (2) until no person or entity, other than the City of Phoenix, has an insurable interest in the property required to be covered.
- The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the Contractor and must continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.
- Policy must contain a waiver of subrogation against the City of Phoenix.
- Contractor is responsible for the payment of all deductibles under the Installation Floater policy.

- 2.2. **NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to **City of Phoenix, Public Works Department, Procurement Officer, 200 W. Washington St. 7th Floor, Phoenix, AZ 85003.**





## SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

### GROUP 1

#### EQUIPMENT PROCESSING SYSTEM

- 2.3. ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- 2.4. VERIFICATION OF COVERAGE:** Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.
- All certificates required by this Contract must be sent directly to **City of Phoenix, Public Works Department, Procurement Officer, 200 W. Washington St. 7<sup>th</sup> Floor, Phoenix, AZ 85003**. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**
- 2.5. SUBCONTRACTORS:** Contractor’s certificates shall include all subcontractors as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontractors have valid and collectable insurance. At any time throughout the life of the contract, the City of Phoenix reserves the right to require proof from the Contractor that its subcontractors have insurance coverage. All subcontractors providing services included under this Contract’s Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Contractor may, on behalf of its subcontractors, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontractors with respect to this Contract.
- 2.6. APPROVAL:** Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed contract amendment.



## SECTION IV – INSURANCE AND INDEMNIFICATION

### GROUP 2

#### MRF OPERATIONS & MATERIALS MARKETING

CITY OF PHOENIX

**The following Insurance and Indemnification requirements are applicable during the Operations Term**

CERTIFICATE OF INSURANCE FOR GROUP 2 IS REQUIRED TO BE SUBMITTED THIRTY (30) DAYS PRIOR TO THE ENDING OF THE EQUIPMENT TERM.

#### **STANDARD SERVICE CONTRACT**

##### **1. DEFENSE AND INDEMNIFICATION CLAUSE**

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

##### **2. CONTRACTOR’S INSURANCE:**

Contractor and 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 their obligations have been discharged, including any warranty periods under this Contract.

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



## SECTION IV – INSURANCE AND INDEMNIFICATION

### GROUP 2

#### MRF OPERATIONS & MATERIALS MARKETING

CITY OF PHOENIX

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

#### **2.1.1. Commercial General Liability – Occurrence Form**

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

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

#### **2.1.2. Automobile Liability**

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

Combined Single Limit (CSL)	\$1,000,000
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- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.



## SECTION IV – INSURANCE AND INDEMNIFICATION

CITY OF PHOENIX

### GROUP 2

#### MRF OPERATIONS & MATERIALS MARKETING

#### 2.1.3. Worker’s Compensation and Employers’ Liability

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

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

2.2. **NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to **City of Phoenix, Public Works Department, Procurement Officer, 200 W. Washington St. 7th Floor, Phoenix, AZ 85003.**

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

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

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

All certificates required by this Contract must be sent directly to **City of Phoenix, Public Works Department, Procurement Officer, 200 W. Washington St. 7th Floor, Phoenix, AZ 85003.** The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**



## SECTION IV – INSURANCE AND INDEMNIFICATION

### GROUP 2

#### MRF OPERATIONS & MATERIALS MARKETING

CITY OF PHOENIX

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



## **SECTION V – SCOPE OF WORK**

**CITY OF PHOENIX**

### **SECTION V – SCOPE**

\*Intentionally left blank



## SECTION VI – SUBMITTALS

CITY OF PHOENIX

### SECTION VI - SUBMITTALS

It is mandatory that the proposer submit an offer for Group 1 – EQUIPMENT PROCESSING SYSTEM.

It is optional for the proposer to submit an offer for Group 2 – MRF OPERATIONS & MATERIALS MARKETING

Should Group 1 and Group 2 offers be submitted by a single proposer the offers must be packaged separately and follow the guidelines listed below.

Proposer is only allowed to submit one offer.

Group 2 Offers will only be evaluated after GROUP 1 Offers have been determined to be within the Competitive Range. The City reserves the right to not award Group 2 proposals.

#### 1. DELIVERY OF PROPOSALS

Each proposer must submit the following in a sealed package marked with the proposer's name, proposer's address, RFP number and the title of this RFP and Group Number.

- 1 original hardcopy proposal including, Section VI - Submittals, Signed Addenda (if applicable), Bid Price Submittal and,
- 1 electronic copy of the proposal in Microsoft Word and/or Excel on a Windows-compatible USB flash drive including, Section VI - Submittals, Signed Addenda (if applicable), Bid Price Submittal and,
- 6 hardcopy proposals **excluding** Section VI - Submittals, Signed Addenda (if applicable), and Bid Price Submittal.
- 2 electronic copy of the proposal in Microsoft Word and/or Excel on a Windows-compatible USB flash drive **excluding** Section VI - Submittals, Signed Addenda (if applicable), and Bid Price Submittal.

Proposals must be in the actual possession of the City at the designated location, on or prior to, the exact time and date indicated in the Schedule of Events. Late proposals will not be considered. The prevailing clock will be the City's clock at the location designated for delivery of the proposal. **Proposals received after the deadline will be disqualified as non-responsive.**

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

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



## SECTION VI – SUBMITTALS

CITY OF PHOENIX

### 2. OFFER SUBMITTAL FORMAT:

- 2.1 Prepare the Proposal in an organized manner where one can navigate easily through all proposed materials. Utilize a Table of Contents with divider tabs to distinguish sections of the Proposal as set forth in the Evaluation Criteria section of the Scope of Works for both Groups. Clearly identify and describe all requirements on the Request for Proposal. Scoring will consider not only content, but readability, organization, format and coordination with other parts of the Proposal.
- 2.2 The written offer should be signed by an individual authorized to bind Offeror and should provide the name, title, e-mail address and the telephone number of the individuals with authority to contractually bind the company and who may be contacted during the evaluation period. Offers should be:
- Typewritten for ease of evaluation;
  - Signed by an authorized representative of the Offeror;
  - Submitted with contact information for the individual(s) authorized to negotiate with the City;
- 2.3 The Bid Price Submittal information must be provided in MS-Excel, as an unlocked workbook with all calculations visible to validate formulas used for costs.
- 2.4 Brochures or marketing material must NOT be supplied. This material will not be reviewed or evaluated, and the Proposer must not use this type of material as part of the information requested to meet proposal requirements.

### 3. COSTS AND PAYMENTS:

3.1 **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

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_





## SECTION VI – SUBMITTALS

CITY OF PHOENIX

upcharge for the SUA charges the vendor will owe the City all costs. The vendor may opt-out of the SUA program once, but then may not rejoin during the same contract term. **For more information about the SUA program or to enroll, send email to [mailbox.sua@phoenix.gov](mailto:mailbox.sua@phoenix.gov).**

#### 4. BID PRICE SCHEDULE:

Respond to the Excel file provided on [solicitations.phoenix.gov](http://solicitations.phoenix.gov) for both Groups 1 and 2.  
NOTE: Only include the Excel document pertaining to your offer.

#### 5. CONTRACTOR'S ACCOUNT REPRESENTATIVES:

Main Contact \_\_\_\_\_

Email Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Alternate Contact \_\_\_\_\_

Email Address \_\_\_\_\_

Phone Number \_\_\_\_\_

#### 6. YEARS IN BUSINESS AND REFERENCES:

Contractor certifies that they have the Pre-Award Qualifications set forth in Section I – Instructions, Item 15.

Contractor shall furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations in accordance to Section I – Instructions, Item 15, Pre-Award Qualifications.

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Reference \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email address \_\_\_\_\_

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



## SECTION VI – SUBMITTALS

CITY OF PHOENIX

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Reference \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email address \_\_\_\_\_

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Reference \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email address \_\_\_\_\_

**7. EMERGENCY 24-HOUR SERVICE CONTACT :**

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

Alternate Contact \_\_\_\_\_

Telephone Number \_\_\_\_\_

**8. PERSONNEL CAPABILITES:**

The applicant shall provide suitably qualified personnel to fill the following positions. For each position the applicant will supply information on a prime candidate and an alternate, each of whom should meet the experience requirements specified below

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

POSITION	TOTAL EXPERIENCE (YEARS)	IN SIMILAR WORKS (YEARS)	AS MANAGER OF SIMILAR WORKS (YEARS)

**9. CONTRACTOR LICENSING REQUIREMENTS:**

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

Licensed Contractor's Name \_\_\_\_\_

Class \_\_\_\_\_

License Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

**ACCEPTANCE OF OFFER**

The Offer is hereby accepted.

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

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

**CITY OF PHOENIX**

A Municipal Corporation

Ed Zuercher, City Manager

\_\_\_\_\_

Felissa Washington Smith  
Interim Public Works Department Director

Attest:

\_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2021

City Clerk

Approved as to form this 19<sup>th</sup> 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.

OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

**OFFER**

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

Arizona Sales Tax No. \_\_\_\_\_

Use Tax No. for Out-of State Suppliers \_\_\_\_\_

City of Phoenix Sales Tax No. \_\_\_\_\_

Arizona Corporation Commission File No. \_\_\_\_\_

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

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

OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



## SECTION VI – SUBMITTALS

CITY OF PHOENIX

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

1. Name of person submitting this disclosure form.

### Contract Information

Solicitation # or Name:

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

3. 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.

4. 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:

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



## SECTION VI – SUBMITTALS

CITY OF PHOENIX

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

### 7. Disclosure of Conflict of Interest:

#### A. City Code Section 43-34

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

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

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

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

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



## SECTION VI – SUBMITTALS

CITY OF PHOENIX

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](http://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:

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DATE: \_\_\_\_\_





## 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

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DATE: \_\_\_\_\_



**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

to: telephone no. 602-261-8999 or 602-534-5500 (TDD); or [aud.integrity.line@phoenix.gov](mailto: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

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OFFER NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



**SECTION VII – ATTACHMENTS**

**GROUP 1 – EQUIPMENT PROCESSING SYSTEM**

**CITY OF PHOENIX**

**SECTION VII - ATTACHMENTS**

\*Intentionally left blank



## **SECTION VII – ATTACHMENTS**

**GROUP 2 – MRF OPERATIONS & MATERIALS MARKETING**

**CITY OF PHOENIX**

### **SECTION VII - ATTACHMENTS**

\*Intentionally left blank