

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LANDMARK AQUATIC SERVICES, LLC
FOR POOL EQUIPMENT AND REPAIR SERVICES**

This Linking Agreement ("Agreement") is entered into as of this day of , 2026, between the City of Glendale, an Arizona municipal corporation ("City"), and Landmark Aquatic Services, LLC, a Delaware limited liability company, authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

- A. On February 2, 2024, the City of Tempe, Arizona, a member of the S.A.V.E cooperative purchasing consortium, entered into a contract with Contractor to purchase the goods and services described in the Pool Equipment and Repair Services Contract No. T24-088-01 ("Cooperative Agreement"), which is attached hereto as **Exhibit A**. The Cooperative Agreement allows its cooperative use by other governmental agencies, including the City.
- B. Section 2-149 of the City's Procurement Code permits the Finance Director to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Finance Director may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City wishes to contract with Contractor for supplies or services identical to those being provided to other units of government under the Cooperative Agreement. Contractor consents to the City's cooperative use of the terms and conditions of the Cooperative Agreement, and agrees to provide the supplies and services set forth in the Statement of Work appended hereto as **Exhibit B**.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement.

- A. As provided in the Cooperative Agreement, purchases can be made by governmental entities from the date of award, which was February 2, 2024, until the date the contract terminates on February 1, 2027, unless the term is extended by mutual agreement of the parties to the Cooperative Agreement. The Cooperative Agreement, however, may not be extended beyond February 1, 2029. The initial period of this Agreement is the period from the Effective Date of this Agreement until February 1, 2027.
- B. The City may extend the term of this Agreement for two (2) additional one year terms if the Cooperative Agreement is likewise extended and the City gives the Contractor notice that it is exercising its option to extend this Agreement 30 days prior to the anniversary of the

Effective Date. Glendale extensions are not automatic and shall only occur if the City affirmatively exercises its right to extend this Agreement.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as **Exhibit B**.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as **Exhibit C**.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed four hundred thousand dollars (\$400,000) for the entire term of the Agreement (initial term plus any extensions).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.

9. Uyghur Forced Labor Prevention Act (UFLPA). Contractor certifies that it does not currently, and during the term of this Agreement, will not use:

- a. the forced labor of ethnic Uyghurs in the People's Republic of China;
- b. any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
- c. any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

10. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
11. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
c/o Manuel Padia, Recreation Administrator
5600 W. Union Hills Dr.
Glendale, AZ 85306
mcpadia@glendaleaz.com

and

Elaine Despeaux, General Manager
PO BOX 28397
Scottsdale, AZ 85255
Edespeaux@landmarkaquatic.com
623-688-3585

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

City of Glendale, an Arizona
municipal corporation

By:

Patrick S. Banger
City Manager

"Contractor"

Landmark Aquatic Services, LLC,
a Delaware limited liability company

By:

Elaine Despeaux
Name: Elaine Despeaux
Title: General Manager

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LANDMARK AQUATIC SERVICES, LLC
FOR POOL EQUIPMENT AND REPAIR SERVICES**

**EXHIBIT A
CITY OF TEMPE CONTRACT FOR POOL EQUIPMENT AND REPAIR SERVICES
AWARD LETTER
CONTRACT EXTENSION LETTERS
CONTRACT NO. T24-088-01**

EXHIBIT A

Contract Award Notice

Financial Services
Procurement Office
20 E. 6th Street
Tempe, AZ 85281



Contract Number:		T24-088-01		Issue Date:		February 2, 2024	
Description:		Pool Equipment and Repair Services					
60266				Award Period			
Commercial Pool Repair				Beginning:		February 2, 2024	
Robert Stockley				Ending:		February 1, 2025	
P.O. Box 28397							
Scottsdale, Arizona 85255				Potential Renewals:		4, 1-year renewal options	
Phone:		480-661-7788					
Cell:		480-250-8378					
Email:		robert@commercialpoolrepairaz.com					

This Contract Award Notice is issued for the purchase of pool equipment and repair services in accordance with contract requirements and specifications. The contract shall remain in effect as noted in the award period block unless extended, renewed or canceled per terms and conditions of the solicitation.

It is to be noted that any contracted vendor document(s) that conflict with the language and requirements of the City's solicitation are not acceptable and will void the contract. In addition, contracted vendor is not to begin work or make delivery of awarded items until any and all required insurance is posted with the City Procurement Office. If contracted vendor has a change of address for mailing payments and/or for mailing future bid solicitations, it is the vendor's responsibility to notify the City Procurement Officer identified with this contract and to ensure all such mailing address information is kept current.

Please note that your City of Tempe contract number should appear on all shipping documents, invoices and statements. Invoices are to be sent directly to the requesting department.

Award Information:

Item	Description	Unit Price
1.	Regular Hourly Charges. Work done between the hours of 6:00 a.m. and 4:00 p.m., Monday through Friday, excluding City holidays. (SOW 9.1.3 a)	\$115.00
2.	Overtime Hourly Charges. Work done between the hours of 4:00p.m. and 6:00a.m., Monday through Friday, 4:00 p.m. to midnight on Friday, all day on Saturday and Sunday, midnight on Sunday to 6:00 a.m., Monday and all day on City holidays. (SOW 9.1.3 b)	\$172.00
3.	Weekend Hourly Charges	\$172.00
4.	Holiday Hourly Charges	\$230.00
	Provide a description for each listed Mfg. catalog including brand name (Include a link to catalog or name the catalog) Catalog Discount	Catalog Discount %
5.	Alladin Equipment Catalog	8%
6.	Antiwave Pool Products	5%
7.	Aqua Creek	2.5%
8.	Bio Dex Laboratories	5%
9.	Chlorking	Parts 5%, Whole Goods at 3.5%
10.	Clear Comfort	6.5%
11.	Clear Water ozone	4%
12.	Competitor Swim Products	7.5%
13.	SR Smith	7%
14.	T-Star Pool Covers	3.5%

15.	Pentair Commercial	5%
16.	Pentair (Stark and Commercial)	7%
17.	Chemtrol	6%
18.	WaterCO	10%
19.	Maytronics/Dolphin	7.5%
20.	Blue and White Industries	5%
21.	Jim Bouy	
22.	Daldorado	4%
23.	Lawson Aquatics	2.5%
24.	Neptune Benson	5%
25.	Duraflex International	2%
26.	Glacier Pool Coolers	1.5%
27.	Custom Molded Products	8%
28.	Taylor Testing	10%
29.	Lamotte	5%
30.	Palin Test	8%
31.	H2Flow	Valves 8%, VFD 5%
32.	MerMade Filter	5%
33.	Nidec Motor (US Motor)	6%
34.	Orenda Technologies	7.5%
35.	Oreq Chemicals	5%
36.	Pentair NY	5.5%
	Cost-plus Percentage for the purchase of consumable supplies	1.25% (markup) 25%
	Tax noted at 8.05%	

Cecille Lewis
Cecille Lewis (Feb 2, 2024 11:05 MST)

Cecille Lewis
Procurement Officer


Michael Greene (Feb 2, 2024 13:22 MST)

Michael Greene, C.P.M., CPPO
Procurement Administrator

All terms and conditions of this Award Document are per the City's Solicitation Document

THIS IS NOT A PURCHASE ORDER

Contract Renewal Notice

Contract Number T24-088-01
Description Pool Equipment and Repair Services

Date January 13, 2025

103214

Landmark Aquatic Services, LLC

Robert Stockley
PO BOX 28397
Scottsdale, AZ 85255

Renewal Information

Beginning February 2, 2025
Ending February 1, 2026
Renewal 1 of 4

Contract Renewal Information

The City of Tempe is requesting renewal of the above mentioned contract under the same terms and conditions at either current contract prices/discounts or at prices/discounts more favorable to the City of Tempe.

If the contractor has lowered the market price(s) of any item(s) on the City's contract, then such lowered prices should be offered to the City of Tempe.

Where performance bonds and/or insurance coverage were requirements of the City's original solicitation/contract, a renewing contractor must provide evidence of bonds and/or insurance extensions as applicable to ongoing City of Tempe contract. Failure to provide insurance certificates as outlined below may result in contract cancellation.

Commercial Pool Repair certifies that it is not currently engaged in, and agrees for the duration of this Contract/Agreement that it will not engage in, a boycott of Israel, as that term is defined in A.R.S. § 35-393

Contractor hereby acknowledges receipt and understanding of this Contract Renewal Notice and that a signed copy of this notice must be filed with the City of Tempe Procurement Office within thirty (30) days from the above noted issue date and the updated insurance certificates (City of Tempe included as additional insured) will be submitted.

Please note: If included, the Affidavit of Compliance form must be completed and returned with the renewal documents. This affidavit is related to the City's new anti-discrimination ordinance that requires compliance from all City contractors.

Procurement Officer	Cecille Lewis	480-350-8801	cecille_lewis@tempe.gov
Procurement Specialist	Kim Truong	480-350-8682	Kim_Truong@tempe.gov

To Be Completed and Signed By Commercial Pool Repair

Contract Number T24-088-01
Contract Description Pool Equipment and Repair Services

Contractor's Name Landmark Aquatic Services, LLC

Contractor's Mailing Address PO BOX 28397 Scottsdale, AZ 85255

Printed name of person signing

Phone Number

email Address

Contractor's Authorized Signature

Date

City of Tempe Contract Renewal Acceptance

Cecille Lewis

Cecille Lewis (Feb 21, 2025 08:31 MST)

Cecille Lewis

Procurement Officer

Date

Eric Kraenzle for Michael Greene

Eric Kraenzle for Michael Greene (Feb 21, 2025 08:40 MST)

Michael Greene, CPM, CPPO

Procurement Administrator

Date

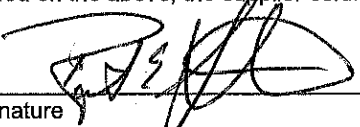


AFFIDAVIT OF COMPLIANCE WITH HOUSE BILL 2488
SUPPLIER AGREES TO NOT USE THE FORCED LABOR OF ETHNIC UYGHURS IN THE PEOPLE'S REPUBLIC OF CHINA

Per House Bill 2488 approved by the Arizona Legislature, this law stipulates that a public entity may not enter into or renew a contract with a company for the acquisition or disposition of supplies, services, goods, information technology or construction unless the contract includes written certification that the company does not currently, and agrees for the duration of the contract that it will not, use:

- The forced labor of ethnic Uyghurs in the People's Republic of China;
- Any services or goods produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
- Any suppliers, contractors or sub-contractors that use the forced labor of any services or goods produce by the forced labor of ethnic Uyghurs in the People's Republic of China

Based on the above, the supplier certifies:



Signature

R. Stackley

Print Name

1/31/25

Date

Vice President and GM

Title

Commercial Pool Repair & Landmark Acoustic Company

Company Name

Contract Renewal Notice

Contract Number T24-088-01
Contract Description Pool Equipment and Repair Services

Date November 18, 2025

103214

Landmark Aquatic Services, LLC

Robert Stockley
PO BOX 28397
Scottsdale, AZ 85255

Renewal Information

Beginning February 2, 2026
Ending February 1, 2027
Renewal 2 of 4

Contract Renewal Information

The City of Tempe is requesting renewal of the above mentioned contract under the same terms and conditions at either current contract prices/discounts or at prices/discounts more favorable to the City of Tempe.

If the contractor has lowered the market price(s) of any item(s) on the City's contract, then such lowered prices should be offered to the City of Tempe.

Where performance bonds and/or insurance coverage were requirements of the City's original solicitation/contract, a renewing contractor must provide evidence of bonds and/or insurance extensions as applicable to ongoing City of Tempe contract. Failure to provide insurance certificates as outlined below may result in contract cancellation.

Landmark Aquatic Services, LLC certifies that it is not currently engaged in, and agrees for the duration of this Contract/Agreement that it will not engage in, a boycott of Israel, as that term is defined in A.R.S. § 35-393

Contractor hereby acknowledges receipt and understanding of this Contract Renewal Notice and that a signed copy of this notice must be filed with the City of Tempe Procurement Office within thirty (30) days from the above noted issue date and the updated insurance certificates (City of Tempe included as additional insured) will be submitted.

Please note: If included, the Affidavit of Compliance form must be completed and returned with the renewal documents. This affidavit is related to the City's new anti-discrimination ordinance that requires compliance from all City contractors.

Procurement Officer	Cecille Lewis	480-350-8801	cecille_lewis@tempe.gov
Procurement Contract Specialist	Kim Truong	480-350-8682	kim_truong@tempe.gov

To Be Completed and Signed By Landmark Aquatic Services, LLC

Contract Number T24-088-01
Contract Description Pool Equipment and Repair Services

Contractor's Name Landmark Aquatic Services, LLC

Contractor's Mailing Address PO BOX 28397 Scottsdale, AZ 85255

Printed name of person signing Robert Stockley

Phone Number (480) 250-8378

email Address

Contractor's Authorized Signature



1/16/26

Date

City of Tempe Contract Renewal Acceptance

Cecille Lewis

[Cecille Lewis \(Feb 6, 2026 08:03:37 MST\)](#)

Cecille Lewis
Procurement Officer

Date



[Michael Greene \(Feb 6, 2026 08:48:06 MST\)](#)

Michael Greene, CPM, CPPO
Procurement Manager

Date



AFFIDAVIT OF COMPLIANCE WITH HOUSE BILL 2488
SUPPLIER AGREES TO NOT USE THE FORCED LABOR OF ETHNIC UYGHURS IN THE PEOPLE'S REPUBLIC OF CHINA

Per House Bill 2488 approved by the Arizona Legislature, this law stipulates that a public entity may not enter into or renew a contract with a company for the acquisition or disposition of supplies, services, goods, information technology or construction unless the contract includes written certification that the company does not currently, and agrees for the duration of the contract that it will not, use:

- The forced labor of ethnic Uyghurs in the People's Republic of China;
- Any services or goods produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
- Any suppliers, contractors or sub-contractors that use the forced labor of any services or goods produce by the forced labor of ethnic Uyghurs in the People's Republic of China

Based on the above, the supplier certifies:



Signature

Robert Stockley

Print Name

Landmark Aquatic Services LLC

Company Name

1/16/26

Date

GM

Title



REQUEST FOR PROPOSAL

RFP# 24-088 POOL EQUIPMENT AND REPAIR SERVICES

RFP ISSUE DATE:
DECEMBER 28, 2023

DEADLINE FOR INQUIRIES/QUESTIONS:
JANUARY 8, 2024, AT 5:00 P.M. LOCAL ARIZONA TIME

RFP DUE DATE AND TIME:
JANUARY 16, 2024, 3:00 P.M. LOCAL ARIZONA TIME

ALL INQUIRIES MUST BE DIRECTED TO:
MICHAEL GREENE, C.P.M., CPPO
EMAIL: Michael_Greene@tempe.gov
480-350-8516

Submit Electronic Proposal and Documents To:
<https://tempe-gov.bonfirehub.com>

General Instructions

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General Instructions

Failure to follow these instructions may result in rejection of proposal for non-responsiveness or cancellation of any Contract awarded.

1. **Preparation of Proposal:**

- A. Proposals shall be submitted through the City's Procurement Portal (Bonfire) website at <https://tempe.gov.bonfirehub.com> under the appropriate solicitation opportunity no later than the designated due date and time and duly signed by an authorized representative of the company. Submissions submitted elsewhere or under the wrong solicitation will not be considered.
- B. Submission materials should be prepared in the file formats listed under Requested Information for this opportunity in the Bonfire Portal. The maximum upload file size is 1000 MB. Documents should not be embedded within uploaded files, as the embedded files will not be accessible or evaluated.
- C. Submissions may be amended via the City's Bonfire Portal but only before the designated due date and time.
- D. The signed proposal response constitutes an irrevocable offer to sell the goods and/or services specified herein. Offeror shall submit all additional data, documentation, or information as requested by the City, signifying its intent to be bound by the terms of the Request for Proposal.
- E. Negligence in preparation of a proposal confers no right of withdrawal. Offeror is solely responsible for seeking clarification of any requirement and presenting accurate information in the proposal response. The City shall not reimburse any costs for a proposal, or its submission, presentation or withdrawal, for any reason. Failure to read, examine and understand the solicitation and any of its addenda will not excuse any failure to comply with the requirements of the solicitation or any resulting contract, nor shall such failure be a basis for claiming additional compensation.
- F. The proposal must be uploaded, submitted and finalized prior to the designated due date and time. The City strongly recommends allowing sufficient time and at least one (1) day before the due date to begin the uploading process and to finalize the submission.

2. **Definitions:** For purposes of this Request for Proposal and resultant Contract, the following definitions apply:

- A. "City" means the municipal corporation of the City of Tempe, Arizona.
- B. "Code Governance" means unless otherwise specified herein, the provisions of the Tempe City Code, Chapter 26A shall apply and govern this Request for Proposal.
- C. "Contract" means the agreement for the procurement of goods, equipment, materials, software, maintenance, contracted services, professional services, or concessions.
- D. "Contractor" means an Offeror responding to a Request for Proposal who has been awarded a Contract with the City.
- E. "Offer" means a written offer to furnish goods, equipment, materials, software, maintenance, contracted services, professional services, or concessions to the City, in conformity with the standards, specifications, delivery terms and conditions, and all other requirements established in a competitive solicitation.
- F. "Offeror" means a business, entity or person who submits an Offer in response to a competitive solicitation.
- G. "Public Record" means proposals and all other documents submitted in response to this solicitation shall become the property of the City and shall be a matter of public record available for review following the Contract award.

General Instructions

- H. "Purchase Order" means a document issued by the Procurement Office directing the Contractor to deliver the goods, equipment, materials, software, maintenance, contracted services, professional services or concessions. to the City.
- I. "Request for Proposal" means a competitive solicitation issued by the City for the procurement of goods, equipment, materials, software, maintenance, contracted services, professional services or concessions.
3. **Late, Unsigned and/or Incomplete Proposal:** A late, unsigned and/or materially incomplete proposal will be considered nonresponsive and rejected.
4. **Inquiries:** Questions regarding this Request for Proposal shall be directed to the Procurement Officer identified on the cover page of this document through Messages/Opportunity Q&A on the City's Procurement Portal through Bonfire. Offerors shall not contact or ask questions of other City staff or the City department for which the requirement is being procured. All questions must be submitted no later than the date and time indicated in the City's Bonfire Portal.
5. **Withdrawal of Proposal:** At any time before RFP Due and time, an Offeror may un-submit a proposal response through the City's Bonfire portal.
6. **Proposal Addenda:** Any changes to the solicitation document will be in the form of an Addendum. Addenda are posted on the City's Procurement Portal (Bonfire) website at <https://tempe-gov.bonfirehub.com> under the appropriate solicitation opportunity. Interested parties are cautioned to check the Procurement Portal through Bonfire for addenda prior to submitting the proposal. The City will not be held responsible if an Offeror fails to receive any addenda issued. The City shall not be responsible for any oral changes to the scope of work or specifications made by any employees or officer of the City and interested parties are cautioned not to rely on any such changes.
7. **Compliance with City Solicitation Requirements:** Unless stated otherwise in this Request for Proposal, the City reserves the right to award by individual line item, by group of items, or as a total at the City's discretion. The City expressly reserves the right to waive any immaterial defect or informality, or reject any or all proposals, or portions thereof, or reissue this Request for Proposal.
8. **Compliance of Proposal Offeror/Contractor Forms:** Any documents or forms (including separate Contract, maintenance agreement or training agreement) intended by the Offeror to be utilized in any resulting Contract, must be submitted with the proposal. Any documents inconsistent with or taking exception to the terms, conditions, specifications and/or other requirements stated within this Request for Proposal may cause the proposal to be considered as nonresponsive and rejected. No documents will be considered unless submitted with vendor's proposal offer and approved by the Procurement Office.
9. **Responsiveness to Specifications:** Performance or feature requirements which are designated as mandatory or minimums are needed in order to satisfy an identified task or performance need. A description is given for each designated feature. This description shall be used to determine if the Offeror's proposed product(s) and/or service(s) is/are capable of performing the function(s) specified in the Request for Proposal.
- It is recognized that more than one method may be used to accomplish the sought-after task functionality. If Offeror has an alternate method of performing functional tasks, then Offeror shall list such method as an "alternate" and described in full detail within the proposal. The City shall be the sole judge as to whether any alternate methodology will be accepted.
- "Must", "shall", "will", "minimum", "required" and/or "mandatory" performance/feature statements must be met or exceeded by the Offeror. Should no Offeror be found responsive to all designated Request for Proposal requirements, the City at its option, may either award the Contract to the most responsive Offeror or cancel the Request for Proposal and issue another Request for Proposal for the need under revised specifications.
10. **Code Governance:** Unless otherwise specified herein, the provisions of the Tempe City Code, Chapter 26A shall apply and govern this Request for Proposal.

General Instructions

11. **Questionnaire:** Offeror must complete the Questionnaire portion of this Request for Proposal and provide any documentation required to support the answers. Questionnaire items, which are designated as mandatory, are needed to satisfy a required task or performance criteria. Items, which may be listed as desirable, are not required to be responsive to the Request for Proposal and will be relatively evaluated against other proposals in making a final award decision. If supporting documentation is required, Offeror shall provide the documentation in the sequence set forth in the Request for Proposal and ensure all technical literature and/or narrative explanations fully address the specifics of the question. Vague or disorganized responses that do not allow sufficient information for evaluation purposes may result in rejection of a proposal.
12. **Clarifications and Negotiations with Offerors and Revisions to Proposal:** Clarifications may be made with any submitting firm at any time during the evaluation phase of this procurement. Clarifications are not negotiations and may be utilized by the City to ensure thorough and complete understanding of, and responsiveness to, the solicitation requirements. Negotiations may be conducted with responsible Offerors who submit proposals determined to be reasonably susceptible of being selected for award. The purpose of negotiations is to allow the City and the Offeror(s) to revise initial offers through an exchange or series of exchanges. Should the City elect to call for best and final offers, Offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiations and revision of proposals, and such revisions may be permitted after submissions and prior to award. In conducting clarifications and negotiations there shall be no disclosure of any information derived from proposals submitted by competing Offerors. The purposes of such negotiations shall include but not be limited to:
 - A. Determine in greater detail such Offeror's qualifications;
 - B. Explore with the Offeror the scope and nature of the project, the Offeror's proposed method of performance, and the relative utility of alternate methods of approach;
 - C. Determine that the Offeror will make available the necessary personnel and facilities to perform within the required time; and
 - D. Agree upon compensation, which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.
13. **Proposal Opening:** Proposals shall be opened at the time and place designated on the cover page of this Request for Proposals. The name of each Offeror and the identity of the Request for Proposal for which the proposal was submitted shall be publicly read and recorded in the presence of witnesses. Proposals, modifications and all other information received in response to this Request for Proposal shall be shown only to City personnel having a legitimate interest in its evaluation. Prices shall not be read. After Contract award, the proposals and the evaluation documentation shall be open for public inspection, except where the City has determined that specific portions of the proposal are confidential.
14. **Proposal Evaluation and Award:** The City shall determine whether a proposal meets the specifications and requirements of this Request for Proposal, at its sole discretion, and reject any proposals not meeting the intent or requirements set forth herein. Award(s) shall be made to the responsible Offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the Request for Proposal. The City shall be the sole judge as to the acceptability of the products and/or services offered. The City reserves the right to reject any and all proposals.
15. **Award of Contract:** A proposal shall constitute a binding Offer to Contract with the City based on the terms, conditions and specifications contained in this Request for Proposal. An Offeror shall become a Contractor only upon execution of a formal Contract from the Procurement Office. Unless this Request for Proposal includes separate Contract document(s) or requires the Offeror to submit a Contract for review, a Contract shall be formed when the Procurement Office provides a written notice of award or a purchase order to the successful Offeror. All terms and conditions of the Contract are contained herein, unless modified by an amendment approved by the City. Proposals that take exception to the terms, conditions, specifications and/or other requirements stated within this Request for Proposal may cause the vendor's Offer to be considered non-responsive and rejected. Exceptions will be evaluated on an individual basis to determine compliance with the purpose and intent of the terms and conditions stated within this solicitation. The City shall be the sole judge as to whether an exception complies with the general purpose and intent of any term, condition and/or specification set forth herein.

General Instructions

16. **Proposal Results:** Offers will be opened on the stated due date, time and location indicated on the cover sheet of the solicitation at which time the name of each offeror will be read. Offers and all evaluation information are not available for public inspection until after the contract has been awarded. After award of the contract, an appointment may be made with the Procurement Officer to review quotation documents.

A preliminary bid tabulation will be posted on the City's Procurement Portal (Bonfire) immediately following the public bid opening. The information on the preliminary tabulation will be posted as it was red during the opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Formal contract award results shall be placed on the Procurement Office web page <https://www.tempe.gov/government/financial-services/procurement> and posted at the front counter of the Procurement Office at the time the contract award is approved by the City Council. Award recommendations may also be viewed via the City Clerk's web site normally up to five (5) days prior to the scheduled City Council meeting by visiting <https://tempe.hylandcloud.com/AgendaOnline/>.

17. **Protests:** Any actual or prospective Offeror who is aggrieved in conjunction with this Request for Proposal or award may protest the award to the Procurement Office. A protest based upon alleged improprieties in this Request for Proposal that are apparent before the proposal opening shall be filed prior to the proposal due date/time. A protest concerning an award recommendation must be filed within ten (10) business days after the date of award. Up to five (5) days before award of a contract, the Procurement Office will post award recommendations on the City Clerks website at (<https://tempe.hylandcloud.com/AgendaOnline/>) and at the Procurement Office front counter and web site for public review (www.tempe.gov/procurement). A protest shall be in writing and include the protester's name, address and phone number, identification of the solicitation or Contract being protested, a detailed statement of the legal and factual grounds of the protest, including copies of all relevant documents and the form of relief requested. A protest is to be on the protester's company letterhead and signed by the protestor or its authorized representative.

18. **Tax:** Unless specified herein, sales, use or federal excise tax shall not be included in proposal pricing. The City is exempt from payment of federal excise tax. For proposal evaluation, transaction (sales) privilege tax paid to the City of Tempe (1.8%) is considered a pass-through cost, calculated as zero (\$0) expense when comparing pricing among competing companies that are not located in Tempe. For information on privilege (sales) tax, please contact the City's Tax and License Office at (480) 350-2955 or visit their web site at [Sales Tax & Regulatory Licenses](#).

19. **Payment:** For a single requirement purchase, the City will endeavor to remit payment within thirty (30) calendar days from receipt and approval of acceptable products, materials and/or services and approval of correct invoice. For ongoing term contract purchases, the City will endeavor to remit payment within thirty (30) calendar days from approval of invoice.

20. **Discounts:** Payment discounts periods shall be computed from the date of receipt of acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed. Discounts shall be taken on the full amount of the invoice, unless otherwise indicated. The City shall be entitled to receive any discounts offered by Offeror if payment is made within the discount period.

21. **Payment by City Procurement Card:** The Procurement Office may elect to remit payment through the use of a City procurement card. Each Offeror may indicate on the Vendor's Offer Page in this Request for Proposal its ability to accept City procurement card payments. The inability to accept payment by City procurement card will not disqualify a proposal.

22. **Public Record:** Proposals and all other documents submitted in response to this solicitation shall become the property of the City and shall be a matter of Public Record available for review following the Contract award. Material portions of the recommended Offer(s) as determined by the City may be posted to the City's website up to five (5) days prior to the City Council meeting.

23. **Late Responses:** The Offeror assumes responsibility for having the Proposal submitted on time to the City's Procurement Portal (Bonfire) website. Any offers received after the RFP Due Date and Time shall not be considered. The Offeror assumes the risk of any delay in the electronic processing of the proposal response to Bonfire. Offerors must allow adequate time to ensure that the proposal is timely received.

General Instructions

24. **Copying Responses:** The Offeror hereby grants the City permission to copy all parts of its offer including, without limitation, any documents and/or materials copyrighted by the Offeror. The City's right to copy shall be for internal use in the evaluating the Offers.
25. **Confidential Information and Public Record:** After award of a contract, proposals shall be available for public inspection, except to the extent that the withholding of information is required or permitted by law. Pursuant to A.R.S. § 35-214, and 41-1330 *et seq.*, all records relating to the Request for Proposal and contract shall be subject to inspection at all reasonable times by the City for five (5) years after completion of the contract. Such records shall be produced by Offeror or Contractor at the time and place designated by the City.
- A. If a person believes that an offer or specification contains information that should be withheld as confidential, a statement advising the procurement officer of this fact shall accompany the submission and the information shall be so identified wherever it appears. A general statement of confidentiality that is not appropriately referenced to a specific section of the RFP will not be sufficient to warrant protection by the City. The confidential portion of the submission must be clearly noted with accompanying justification for treating the section confidential. Failure of the vendor to appropriately designate confidential information in this manner will relieve the City of any obligation to protect this information as confidential.
- B. The information identified by the person as confidential shall not be disclosed until the Procurement Office makes a written determination pursuant to A.R.S. § 121, *et seq.*
- C. If the City determines to disclose the information, the Offeror shall be informed in writing of such determination. Notwithstanding the foregoing, following an award of contract, all proposal response information shall be available for public inspection.

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Please note that these Standard Terms & Conditions shall be fully complied with by Offeror. Failure to comply with these requirements may result in the rejection of a proposal for non-responsiveness, or cancellation or termination of any awarded contract.

1. **Applicable Law:** This Contract shall be governed by, and the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code as adopted in the State of Arizona, except as otherwise provided in this Request for Proposal and resultant contract, and all statutes, or ordinances pertaining specifically to the City. This Contract shall be governed by State of Arizona law and suits pertaining to this Contract may only be brought in courts located in Maricopa County, Arizona.
2. **Arizona Climate Action Compliance:** Offeror shall comply with all applicable standards, laws, rules, orders and regulations issued pursuant to A.R.S. §49-101, *et seq.*, including but not limited to, Arizona Executive Orders Nos. 2006-13, 2005-02, and 2010-14 with regard to reducing GHG emissions, increasing energy efficiency, conserving natural resources and developing renewable energy sources.
3. **Availability of Funds for the Next Fiscal Year:** The City's obligation for performance of the Contract is contingent upon the availability of City, state and federal funds that are allocated or appropriated for payment obligations of the Contract. If funds are not allocated by the City or available for the continued use or purchase of services, work and/or materials set forth herein, the City may terminate the Contract. The City will use reasonable efforts to notify Contractor of such non-allocation affecting the obligations of the Contractor and/or City. The City shall not be penalized or adversely affected for exercise of its termination rights. Further, the City shall in no way be obligated or liable for additional payments or other damages as a result of such termination. No legal liability on the part of the City for any payment may arise for performance under this Contract.
4. **Billing:** All invoices submitted by Contractor for the City's review and approval shall be in itemized form to identify the specific item(s) being billed. Any purchase/delivery order issued by the City shall refer to the Contract number resulting from this Request for Proposal. Separate invoices are required on individual contracts or purchase orders. Only invoices with items resulting from this Request for Proposal will be accepted for review and approval by the City.
5. **Commencement of Work:** Contractor is cautioned not to commence any work or provide any materials or services under the Contract until and unless Contractor receives a purchase order, Notice to Proceed, or is otherwise directed in writing to do so, by the City.
6. **Certification:** By signing the "Vendor's Offer", the Offeror certifies:
 - A. The submission of the proposal response did not involve collusion or other anti-competitive practices.
 - B. Offeror agrees that it will comply with section 2-603(5) of the Tempe City Code ("TCC") and will not refuse to hire or employ or bar or discharge from employment any person or discriminate against such person in compensation, conditions, or privileges of employment because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status. Offeror further agrees to provide a copy of its antidiscrimination policy to the Procurement Officer to demonstrate compliance with TCC section 2-603(5) or attest in writing to its compliance in accordance with the attached Affidavit of Compliance.
 - C. 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. Failure to sign the "Vendor's Offer" or signing it with a false statement shall void the submitted proposal and any resulting Contract. In addition, the Offeror may be barred from future proposal and bidding participation with the City and may be subject to such further actions as permitted by law.
 - D. Offeror agrees to promote and offer to the City only those materials and/or services as stated and allowed by this Request for Proposal and resultant contract award. Violation of this condition shall be grounds for Contract termination by the City.

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- E. Offeror expressly warrants that it has and will continue to comply in all respects with Arizona law concerning employment practices and working conditions, pursuant to A.R.S. § 23-211, *et seq.*, and all laws, regulations, requirements and duties relating thereto. Offeror further warrants that to the extent permitted by law; it will fully indemnify the City for any and all losses arising from or relating to any violation thereof.
 - F. Contractor agrees and covenants that it will comply with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction insofar as the performance of the work and services pursuant to the Contract, and all applicable safety and employment laws, rules and regulations, including but not limited to, the Fair Labor Standards Act, the Walsh-Healey Act, and the Legal Arizona Workers Act (LAWA), and all amendments thereto, along with all attendant laws, rules and regulations. Contractor acknowledges that a breach of this warranty is a material breach of this Contract and Contractor is subject to penalties for violation(s) of this provision, including termination of this Contract. The City retains the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to the Contract to ensure compliance with this warranty. Any and all costs associated with City inspection are the sole responsibility of Contractor. Contractor hereby agrees to indemnify, defend and hold City harmless for, from and against all losses and liabilities arising from any and all violations thereof.
 - G. If the Contractor engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842. Unless and until the U.S. District Court, District of Arizona's injunction is lifted, A.R.S. § 35-393.01 is unenforceable.
 - H. Compliance with A.R.S. § 35-394. Contractor hereby certifies that it does not currently, and agrees for the duration of this Agreement, that Contractor will not, use: 1. The forced labor of ethnic Uyghurs in the People's Republic of China; 2. Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or 3. Any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. Contractor hereby agrees to indemnify and hold harmless the Customer, its officials, employees, and agents from any claims or causes of action relating to the Customer's action based upon reliance upon this representation, including the payment of all costs and attorney fees incurred by the Customer in defending such as action. During the term of agreement, Contractor shall alert the City within five (5) days after becoming aware of its noncompliance with this statute and cure any noncompliance within 180 days after initial notification of noncompliance. Failure to cure in accordance with the provisions of this statute shall result in contract termination.
7. **Confidentiality of Records:** Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
8. **Contract Formation:** This Contract shall consist of this Request for Proposal and the vendor's proposal offer submitted, as may be found responsive and approved by the City. In the event of a conflict in language between the documents, the provisions of the City's Request for Proposal shall govern. The City's Request for Proposal shall govern in all other matters not otherwise specified by the Contract between the parties. All previous contracts between the Offeror and the City are not applicable to this Contract or other resultant contracts. Any contracted vendor documents that conflict with the language and requirements of the City's solicitation are not acceptable and void the Contract.
9. **Contract Modifications:** This Request for Proposal and resultant Contract may only be modified by a written contract modification issued by the Procurement Office and counter-signed by the Contractor. Contractors are not

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authorized to modify any portion of this solicitation or resulting Contract without the written approval of the Procurement Office and issuance of an official modification notice.

10. **Contract Administration:** Contractor must notify the designated Procurement Officer from the Procurement Office for guidance or direction on matters of Contract interpretation or problems regarding the terms, conditions or scope of this Contract. The Contract shall contain the entire agreement between the City and the Contractor and the Contract shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders or master agreements in any form.

11. **Cooperative Use of Contract:** Any Contract resulting from this solicitation shall be for the use of the City of Tempe. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tempe's Department of Procurement are eligible to participate in any subsequent Contract. Additionally, this Contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.mesaaz.gov/business/purchasing/save> for a listing of participating agencies. The parties agree that these lists are subject to change. Any such usage by other municipalities and government agencies must be in accord with the ordinance, charter and/or rules and regulations of the respective political entity.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others. Contractor shall be responsible for correctly administering this Contract in accordance with all terms, conditions, requirements, and approved pricing to any eligible procurement unit.

12. **Delegated Awards:** In the event this Contract is administratively awarded via delegated authority as provided for in Section 26A-5 of the Procurement Ordinance, the Contractor acknowledges that a final Contract with the City of Tempe requires City Council approval and possibly the signature of the Mayor. Should this Contract be rejected by the City Council, Contractor agrees that it is immediately void and unenforceable against any party. The awarded firm(s) will be compensated only for any and all costs incurred up to the date of notification of such termination.

13. **Dispute Resolution:** This Contract is subject to arbitration to the extent required by law. If arbitration is not required by law, the City and the Contractor agree to negotiate with each other in good faith to resolve any disputes arising out of the Contract. In the event of any legal action or proceeding arising out of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred with said fees and costs to be included in any judgment rendered.

14. **Energy Efficient Products:** The City may consider energy conservation factors including costs in the evaluation of equipment and product purchases for the purpose of obtaining energy efficient products. In addition, vendor proposal Offers may specify items that have been given an energy efficient classification by the federal government for consideration by the City.

15. **Estimated Quantities:** This Request for Proposal references quantities as a general indication of the City's needs. The City anticipates considerable activity resulting from Contracts that will be awarded as a result of this Request for Proposal; however, the quantities shown are estimates only and the City reserves the right to increase or decrease any quantities actually acquired, in its sole discretion. No commitment of any kind is made concerning quantities and Offeror hereby acknowledges and accepts same.

16. **Interpretation of Parol Evidence:** This Contract is intended as a final expression of the agreement between the parties and as a complete and exclusive statement of the Contract, unless the signing of a subsequent Contract is specifically called for in this Request for Proposal. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of the Contract, even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

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17. Events of Default and Termination:

- A. In the event a party is in default then the other party may, at its option and at any time, provide written notice to the defaulting party of the default. The defaulting party will have thirty (30) days from the receipt of the written notice to cure the default; the thirty (30) day cure period may be extended by mutual agreement of the parties, but no cure period may exceed ninety (90) days. A default notice will be deemed to be sufficient if it is reasonably calculated to provide notice of the nature and extent of such default. Failure of the non-defaulting party to provide written notice of the default does not waive any rights under the Agreement. The occurrence of any one or more of the following events shall constitute a material breach of and default under the Contract.
- i) Any failure by Contractor to pay funds or furnish materials, services and/or goods that fail to conform to any requirement of this Contract or provide personnel that do not meet Contract requirements;
 - ii) Any party's failure to observe, perform or undertake any provision, covenant or condition of this Contract to be observed or performed by Contractor or City herein, including but not limited to failing to submit any report required herein;
 - iii) Any failure to make progress in the performance required pursuant to the Contract and/or gives either party reason to believe that the other party cannot or will not perform to the requirements of the Contract; or,
 - iv) Any failure of Contractor to commence construction, work or services within the time specified herein, and to diligently undertake Contractor's work to completion.
- B. In the event the default has not been corrected to the non-defaulting party's satisfaction within the cure time specified, the non-defaulting party, at its option and in addition to any other remedies available by law or in equity, without further notice or demand of any kind to Contractor, may do the following:
- i) Terminate the Contract;
 - ii) Pursue and/or reserve any and all rights for claims to damages for breach or default of the Contract; and/or,
 - iii) Recover any and all monies due from Contractor, including but not limited to, the detriment proximately caused by Contractor's failure to perform its obligations under the Contract, or which in the ordinary course would likely result therefrom, including, any and all costs and expenses incurred by the City in: (a) maintaining, repairing, altering and/or preserving the premises (if any) of the project; (b) costs incurred in selecting and retaining a substitute Contractor for the purchase of services, materials and/or work; and/or (c) attorneys' fees and costs in pursuing any remedies under the Contract and/or arising therefrom.
- C. The exercise of any one of the City's remedies as set forth herein shall not preclude subsequent or concurrent exercise of further or additional remedies. In addition, the City shall be entitled to terminate this Contract at any time, in its discretion. The City may terminate this Contract for default, non-performance, breach or convenience, or pursuant to A.R.S. § 38-511, or abandon any portion of the project for which services have not been fully and/or properly performed by the Contractor.
- D. Termination shall be commenced by delivery of written notice to Contractor by the City personally or by certified mail, return receipt requested. Upon notice of termination, Contractor shall immediately stop all work, services and/or shipment of goods hereunder and cause its suppliers and/or subcontractors to cease work pursuant to the Contract. Contractor shall not be paid for work or services performed or costs incurred after receipt of notice of termination, nor for any costs incurred that Contractor could reasonably have avoided.
- E. The City, in its sole discretion, may terminate or reduce the scope of this Contract if available funding is reduced for any reason.

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- F. Whenever the City in good faith has reason to question Contractor's intent or ability to perform, the City may demand that Contractor give a written assurance of its intent and ability to perform. In the event that the demand is made, and no written assurance is given within the time period required, the City may treat this failure as an anticipatory repudiation of the Agreement.

18. **Force Majeure:**

- A. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under the Contract only in the event that and to the extent that such party's performance of the Contract is prevented by reason of force majeure. Force majeure means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions, failures or refusal to act by government authority, and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
- B. Force majeure shall not include the following occurrences:
- i) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
 - ii) Late performance by a subcontractor.
- C. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours of the commencement thereof and shall specify the causes of such delay in the notice. Such notice shall be hand delivered or sent via certified mail and shall make a specific reference to this clause, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing by hand delivery or certified mail when it has done so. The time of completion shall be extended by Contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with the Contract.

19. **Gratuities:** The City may elect to terminate any resultant Contract, if it is found that gratuities in any form were offered or given by the Contractor or agent thereof, to any employee of the City or member of a City evaluation committee with a view toward securing an order, securing favorable treatment with respect to awarding, amending or making of any determinations with respect to performing such order.

20. **Indemnification:** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, officer, officials, and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees, court costs, and the costs of appellate proceedings), arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work, services, or professional services of the Contractor, its agents, employees, or any other person (not the City) for whose acts, errors, mistakes, omissions, work, services, or professional services the Contractor may be legally liable in the performance of this Contract. Contractor's duty to hold harmless and indemnify the City, its agents, officers, officials and employees shall arise in connection with any claim for damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of any person or property, including loss of use resulting from, or caused by any acts, errors, mistakes, omissions, work, services, or professional services in the performance of this Contract by Contractor or any employee of the Contractor or any other person (not the City) for whose acts, errors, mistakes, omissions, work, or services the Contractor may be legally liable. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of indemnity in this paragraph. This provision shall survive the term of this Contract.

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21. **Key Personnel:** Contractor shall provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract during the Contract term and any renewal periods. The Contractor must agree to assign specific individuals to the key positions.
- A. The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without prior written notice to the City.
- B. If key personnel are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall replace each person with personnel of substantially equal ability and qualifications upon prior City approval.
22. **Licenses and Permits:** Contractor shall maintain in current status and at its sole expense, all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor and the provision of the services to be provided under the Contract.
23. **No Assignment:** No right or interest in this Contract shall be assigned by Contractor and no delegation of any duty of Contractor shall be made without prior written permission of the City, which consent may be granted or withheld in City's unfettered discretion.
24. **Non-exclusive Contract:** Any Contract resulting from this Request for Proposal shall be awarded with the understanding and agreement that it is non-exclusive and entered into for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source.
25. **Notices:** All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provision collectively called "Notices"), shall be in writing and shall be hand delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:
- City of Tempe Procurement Office
Attn: Procurement Officer
PO Box 5002
Tempe, Arizona 85280
- [Contractor's Name]
[Attn of Offeror Named in Contract]
[Address]
- Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder.
26. **No Waiver:** No breach of default hereunder shall be deemed to have been waived by the City, except by written instrument to that effect signed by an authorized agent of the City. No waiver of any such breach or default shall operate as a waiver of any other succeeding or preceding breach or default or as a waiver of that breach or default after demand by the City for strict performance of this Contract. Acceptance of partial or delinquent payments or performance shall not constitute the waiver of any right of the City. Acceptance by the City for any materials shall not bind the City to accept remaining materials, future shipments or deprive the City of the right to return materials already accepted. Acceptance by the City of delinquent or late delivery shall not constitute a waiver of a later claim for damages and/or bind the City for future or subsequent deliveries.
27. **Ordering Process:** Upon award of a Contract by the Procurement Office, the City may procure the specific material and/or service awarded by the issuance of a purchase order to the appropriate Contractor. Each purchase order must cite the correct Contract number. Such purchase order is required for the City to order and the Contractor to deliver the material and/or service.
28. **Overcharges by Antitrust Violations:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the City. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and/or services used to fulfill the Contract.

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29. **Performance Standards:** Equipment shall operate in accordance with the performance criteria specified in the Request for Proposal, including the manufacturer's published specifications applicable to the equipment involved. Equipment is expected to be available for productive use, as provided in the procurement documents. Penalties and/or bonuses applicable to equipment and system performance, if any, shall be calculated as specified in the Request for Proposal.
30. **Preparation of Specifications by Persons Other Than City Personnel:** No person preparing specifications for this Request for Proposal shall receive any direct or indirect benefit from the use of these specifications.
31. **Procurement of Recycled Materials:** If the price of recycled material that conforms to specifications is within five percent (5%) of the lower priced material that is not recycled and the recycled Offeror is otherwise the lowest responsive and responsible Offeror, the proposal containing recycled material shall be considered more advantageous; provided the item(s) to be obtained contains at least the minimum amount of recycled content material as defined in the City's solicitation and sufficient funds have been budgeted for the purchase.
32. **Provisions by Law:** Each and every provision of law and any clause required by law to be in this Contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract will forthwith be physically amended to make such insertion or correction.
33. **Public Record:** After award of Contract, proposal responses shall be considered Public Record and open for public inspection except to the extent the withholding of information is permitted or required by law. If an Offeror believes a specific section of its proposal response is confidential, the Offeror shall mark the page(s) confidential and isolate the pages marked confidential in a specific and clearly labeled section of its proposal response. The Offeror shall include a written statement as to the basis for considering the marked pages confidential and the Procurement Office will review the material and make a determination, pursuant to A.R.S. §§ 39-121, *et seq.*, and 41-151, *et seq.* A general statement of confidentiality (boiler plate statement) that is not appropriately referenced to a specific section of the RFP will not be sufficient to warrant protection by the City. The confidential portion of the submission must be clearly noted with accompanying justification for treating the section confidential. Failure of the vendor to appropriately designate confidential information in this manner will relieve the City of any obligation to protect this information as confidential.
34. **Records:** Pursuant to provisions of Title 35, Chapter 1, Article 6 Arizona Revised Statutes §§ 35-214 and 36-215, Contractor shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All such documents shall be subject to inspection and audit at reasonable times. Upon request, a legible copy of any or all such documents shall be produced at the offices of the City Attorney or Procurement Office.
35. **Relationship of Parties:** It is clearly understood that each party to this Contract will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other party. The Contractor is an independent Contractor and shall be solely responsible for any unemployment or disability insurance payments, or any social security, income tax or other withholdings, deductions or payments that may be required by federal, state or local law with respect to any compensation paid to the Offeror. An employee or agent of one party shall not be an employee or agent of the other party for any purpose whatsoever.
36. **Rights and Remedies:** No provisions of this Request for Proposal or in the proposal shall be construed, expressly or by implication, as a waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of Contract. The failure of the City to insist upon strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, shall not release the Contractor from any responsibilities or obligations imposed by the Contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.
37. **Safety Standards:** All items supplied on this Contract must comply with the current applicable Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code and the National Fire Protection Association Standards.

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38. **Severability:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the invalid provision or application.
39. **Shipping Terms:** Prices shall be F.O.B. Destination to the delivery location(s) designated herein. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. The City will notify the Contractor promptly of any damaged materials and shall assist the Contractor in arranging for inspection. Shipments under reservation are prohibited. No tender of a bill of lading shall operate as a tender of the materials.
40. **Specially Designated Nationals and Blocked Persons List:** Contractor represents and warrants to the City that neither Contractor nor any affiliate or representative of Contractor:
- A. Is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury (OFAC) pursuant to Executive Order no. 13224, 66 Fed. Reg. 49079 ("Order");
 - B. Is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of OFAC or any other applicable requirements contained in any enabling legislation or other related Order(s);
 - C. Is engaged in activities prohibited in the Order; or,
 - C. Has been convicted, pleaded *nolo contendere*, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.
41. **Termination for Conflict of Interest:** This Contract is subject to the cancellation provisions of A.R.S. § 38-511. The City may cancel this Contract within three (3) years after its execution, without penalty or further obligation, if any person significantly involved in initiating, securing, drafting, or creating the Contract for the City becomes an employee or agent of the Contractor.
42. **Termination for Convenience:** The City at its sole discretion may terminate this Contract for convenience with thirty (30) days advance notice to Contractor. Contractor shall be reimbursed for all appropriate costs as provided for within the Contract up to the termination date specified.
43. **Time of the Essence:** Time is and shall be of the essence in this Contract. If the delivery date(s) specified herein cannot be met, Contractor shall notify the City using an acknowledgment of receipt of order and intent to perform without delay, for instruction. The City reserves the right to terminate this Contract and to hold Contractor liable for any cost of cover, excess cost(s) or damage(s) incurred as a result of delay.
44. **Unauthorized Firearms & Explosives:** No person conducting business on City property is to carry a firearm or explosive of any type. All Offerors, Contractors and subcontractors shall honor this requirement at all times and failure to honor this requirement shall result in Contract termination and additional penalties. This requirement also applies to any and all persons, including those who maintain a concealed weapons permit. In addition to Contract termination, anyone carrying a firearm or explosive device will be subject to further legal action.
45. **Warranties:** Contractor expressly warrants that all materials and/or goods delivered under the Contract shall conform to the specifications of this Contract and be merchantable and free from defects in material and workmanship, and of the quality, size and dimensions specified herein. This express warranty shall not be waived by way of acceptance or payment by the City, or otherwise. Contractor expressly warrants the following:
- A. All workmanship shall be finest and first-class;
 - B. All materials and goods utilized shall be new and of the highest suitable grade for its purpose; and
 - C. All services will be performed in a good and workmanlike manner. Contractor's warranties shall survive inspection, acceptance and/or payment by the City, and shall apply to the City, its successors, agents and assigns.

Standard Terms and Conditions

The Contractor agrees to make good by replacement and/or repair, at its sole expense and at no cost to the City, any defects in materials or workmanship which may appear during the period ending on a date twelve (12) months after acceptance by the City, unless otherwise specified herein. Should Contractor fail to perform said replacement and/or repair to City's satisfaction within a reasonable period of time, City may correct or replace said defective or nonconforming materials and recover the costs thereof from Contractor. This warranty shall not operate to reduce the statute of limitations period for breach of contract actions or otherwise or reduce or eliminate any legal or equitable remedies.

46. **Work for Hire and Ownership of Deliverables:** The Contractor hereby agrees and covenants that all the results and proceeds of the Contractor's work and/or services for the Project specified herein, for the Contractor and all of its agents, employees, officers and subcontractors, shall be owned by the City, including the copyright thereto, as work for hire. In the event, for any reason such results and proceeds are not deemed work for hire, the Contractor agrees and covenants that it shall be deemed to have assigned to the City all of its right, title and interests in such results, proceeds and content to the City, without limitation. Contractor agrees to indemnify and hold the City harmless from and against all claims, liability, losses, damages and expenses, including without limitation, legal fees and costs, arising from or due to any actual or claimed trademark, patent or copyright infringement and any litigation based thereon, with respect to any work, services and/or materials contemplated in this Contract. Contractor agrees to pay to defend any and all such actions brought against the City. Contractor's obligations hereunder shall survive acceptance by the City of all covenants herein as well as the term of the Contract itself.

Special Terms and Conditions

Proposals taking exception to Special Terms & Conditions and Instructions stated within this Request for Proposal may cause the Proposal to be considered nonresponsive and rejected.

1. **City Procurement Document:** This Request for Proposal is issued by the City. No alteration of any portion of this Request for Proposal by an Offeror is permitted and any attempt to do so shall result in vendor's proposal Offer being considered nonresponsive and rejected. No alteration of any portion of a resultant Contract is permitted without the written approval of the Procurement Office and any attempt to do so shall be considered a breach of the Contract. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, Contract termination and/or suspension of the Contractor.
2. **Offer Acceptance Period:** To allow for an adequate evaluation, the City requires the vendor's proposal Offer in response to this Request for Proposal to be valid and irrevocable for 90 days after the proposal due time and date.
3. **Contract Type:** Term with justifiable price adjustments allowed, indefinite quantity.
4. **Term of Contract:** The term of the Contract shall commence on the date of award and shall continue for a period of one (1) year thereafter, unless terminated, canceled or extended as otherwise provided herein.
5. **Contract Renewal:** The City reserves the right to unilaterally extend the period of any resultant Contract for ninety (90) days beyond the stated term. In addition, the City at its option may renew for supplemental terms of up to a maximum of four (4) additional years. The period for any single renewal increment shall be determined by the Procurement Office. Such increment shall not be for more than a period of one(1) year each, unless the City is eligible to obtain a cost and/or supply advantage by a longer Contract renewal period.
6. **Discount from Published List:**
 - A. Proposals shall be submitted on the basis of a discount from the manufacturer's suggested list price, obtained from a manufacturer's published price list(s). Such published price list(s) must be common to and accepted by the industry in general. The catalog/price lists must be printed or available in electronic format and be properly identified and dated as to issuance and effectiveness.
 - B. Offerors must provide a statement of applicable discount(s) from price catalog(s). Discounts offered must be clearly expressed as how they would apply to the item(s) bid and be specific as to the percent discounted for each item or group of items. Offers containing chain or multiple discounts for any one item or group of items may be considered nonresponsive. A copy of all referenced price catalogs must be included within the bid or provide a web site address where the lists can be viewed by the City. In addition to specified items, only those products and services listed in the Contractor's price catalog(s) and updates thereto, as approved by the Procurement Office, will be eligible for purchase under resulting Contract.
 - C. Revised published price lists may be used as a means of price adjustment. However, all bids are to be firm for a period of ___ calendar days after the bid opening date and revised price lists that reflect price increases will not be accepted by the City until after that date and will be considered only in the event of an industry-wide price change, as evidenced by the issuance of revised price lists, by the manufacturer. Price decreases which benefit the City shall be offered throughout the Contract term.
 - D. Revised pricing(s) will not become effective until revised list(s) are submitted under Contractor's cover letter identifying the applicable Request for Proposal and Contract agreement number. Contractor's cover letter and pricing list(s) must be dated, signed and submitted to:

Procurement Office
City of Tempe
P.O. Box 5002
20 E. 6th Street (Second Floor)
Tempe, AZ 85280

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7. **Price Adjustment:**

- A. The Procurement Office will review fully documented requests for price increases after the Contract has been in effect for 12 months. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the Proposal and can be shown to directly affect the price of the item concerned. The Procurement Office will determine whether the requested price increase, or an alternative option, is in the best interest of the City. Advanced thirty (30) day written notification by Contractor is required for any price changes. All price adjustments will be effective on the first day of the month following approval or acceptance by the Procurement Office. After the City approves a price increase the Contractor shall not be eligible to receive an additional increase until 12 months from the date of the last approved price increase.
- B. Price increase requests must be acknowledged in writing by the Procurement Office before becoming effective. If not acknowledged within thirty (30) days, Contractor shall contact the Procurement Office to ensure the price increase request was received.
- C. The Contractor shall offer any published price reduction or if applicable to the Contract, profit sharing price advantage to the City concurrent with its announcement to other customers. A price reduction or profit-sharing price advantage may be offered at any time during the term of an awarded Contract and shall become effective upon notice and acceptance. The City shall likewise be given any special sales discounts offered to the general public, which exceed contracted price discounts extended to the City by the Contractor.

8. **Multiple Awards:** The City has a large number and variety of potential customer departments. In order to ensure at any ensuing Contracts will allow the City to fulfill current and future requirements, the City reserves the right to award Contracts to multiple companies. The actual utilization of any Contract will be at the sole discretion of the City. The fact that the City may make multiple awards should be taken into consideration by each Offeror.

9. **Change Order:** The Procurement Office reserves the right to execute change orders reflecting a quantity increase within ninety (90) days from Contractor's initial delivery date. No change order will be executed outside of the scope of the City's Request for Proposal and the Contractor's proposal and price response.

10. **Turnaround Time:** Offeror must be capable of providing a work completion turnaround time for requested delivery of materials and/or services within the time stated in this Request for Proposal. Turnaround time is defined as the time frame beginning with the Contractor being notified of a need by the City and ending with the delivery of the work in completed form back to the City within the specified time. Proposal shall provide any required pick-up and delivery as part of the proposed price response to the City.

11. **Brand Name or Equal Specifications:** When the specification calls for "Brand Name or Equal," the brand name product is acceptable. The use of a brand name is for the purposes of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. If an Offeror wishes to provide a material or service that is not the brand name, the equivalent material or service must meet the standard of quality of the brand name product., which is determined at the City's sole discretion. Equivalent products will be considered upon showing the other product meets stated specifications and is equivalent to the brand name product in terms of quality, performance and desired characteristics. Products that are substantially equivalent to those brands designated will qualify for consideration. Burden of proof that the product meets the minimum standards or is equal to the brand name product is on the Offeror. The City reserves the right to reject Responses that the City deems unacceptable for any reason.

12. **Warranty:** Each proposal must include a complete and exclusive statement of the product warranty. Warranty offers will be relatively considered as appropriate to life cycle costing.

13. **Descriptive Literature:** Offeror shall provide the City with complete manufacturers' descriptive literature regarding the materials, equipment, or products proposed to be furnished under the Contract. Literature shall be provided in sufficient detail so as to provide the City with full and fair evaluation of the proposal. Failure to include required information or insufficient information may result in the Offer being rejected.

Special Terms and Conditions

14. **Current Products:** All Offers made in response to this Request for Proposal shall be in current and ongoing production shall have been formally announced for general marketing purposes shall be a model or type currently functioning in user environments and shall meet or exceed all specifications and requirements set forth in this solicitation. Enhancements to established products need not necessarily comply with this clause and will be reviewed on individual merits.
15. **Product Discontinuance:** The City may award Contracts for particular products and/or models of equipment as a result of this solicitation. In the event that a product or model is discontinued by the manufacturer, the City at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request permission by the City to substitute a new product or model and provide all of the following:
 - G. A formal announcement from the manufacturer that the product or model has been discontinued;
 - H. Documentation from the manufacturer that names the replacement product or model;
 - C. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation;
 - D. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model; and
 - E. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.
16. **Local Inventory Stocking:** In order to provide the necessary delivery support required for the items specified, Offeror must have a local inventory warehouse facility. Each warehouse facility must be staffed by trained personnel and have sufficient inventory in order to provide quality service on a timely basis. The Procurement Office may inspect the warehouse facility to determine adequacy.
17. **Local Maintenance:** In order to ensure that the highest up-time for the purchased equipment is maintained, , Offeror must have local maintenance facilities and/or have specific agreements in force with a third party to provide local maintenance. Each maintenance facility must be staffed by trained technicians and have a sufficient parts inventory to provide quality service on the equipment. The Procurement Office may inspect the maintenance facilities to determine adequacy of the inventory.
18. **Maintenance Service:** Contractor covenants and agrees to maintain the equipment set forth in the Request for Proposal, or alternatively, warrants that the equipment manufacturer will maintain the equipment acquired under the Contract in good working order and in accordance with the manufacturer's official published specifications and any other specifications set forth herein. Additional terms and conditions applicable to maintenance of the equipment may be specified in a separate maintenance agreement between the City and the Contractor or equipment manufacturer. In no event shall the provisions of such separate agreement supersede the provisions of the Contract.
19. **Installation and Training:** The Contractor shall install the equipment and provide training to City personnel to ensure proper operation and utilization. Necessary manuals shall be furnished to the City for each piece of equipment at no cost to the City.
20. **Installation and Acceptance:**
 - A. **Installation Date:** The Contractor shall install equipment ready for use on or before the installation date specified in the applicable schedule.
 - B. **Site Preparation:** The City shall have the site available and prepared in a timely manner in accordance with Contractor published specifications. The Contractor shall be given access to the site for installation and testing purposes.

Special Terms and Conditions

- C. Site Inspection: Prior to the installation date, Contractor shall inspect the site and shall report to the City, in writing, the dates of such inspections, any rejections and the reasons therefore, and the final acceptance thereof. Such final site acceptance shall include a written representation to the City by the Contractor that the site meets the Contractor's and/or equipment manufacturer's site specifications for the efficient and safe operation of the equipment.
 - D. Acceptance Testing: When Contractor has completed installation and is satisfied that the equipment is operating successfully and meets minimum design capabilities, the City shall be so notified. The City may accept or reject any portion or all of the equipment.
 - E. Acceptance: At the conclusion of the acceptance testing period, the City's acceptance may be conclusively presumed if a written rejection specifying the reasons therefore is not delivered to Contractor within ten (10) business days following the end of the acceptance testing period.
21. **Contractor's Risk**: Contractor agrees to bear all risk of loss, injury, or destruction of materials (equipment/products) ordered as a result of this Contract which occurs prior to delivery to the City; and such loss, injury, or destruction shall not release Contractor from any obligation hereunder.
22. **Insurance**:
- A. Insurance Required: Prior to commencing services under this Contract, Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries (including death) to persons and damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees, subcontractors, or sub-subcontractors. For Offerors with self-insurance, proof of self-insurance with minimum limits expressed below must be submitted on proper forms for evaluation prior to award of Contract.

A Contract Award Notice or Purchase Order will not be issued to the Contractor until receipt of all required insurance documents by the Procurement Office with such documents meeting all requirements herein. In addition, before any Contract renewal, all required insurance must be on file with the Procurement Office. Contractor must submit required insurance within ten (10) calendar days after request by the Procurement Office or the award may be rescinded and another Offeror selected for award.
 - B. Minimum Limits of Coverage: Without limiting any obligations or liabilities, the Contractor, at its sole expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance and with forms satisfactory to the City. Each insurer shall have a current A.M. Best Company, Inc., rating of not less than A-VII. Use of alternative insurers requires prior approval from the City.
 - i. Minimum Limits of Insurance. Contractor shall maintain the following minimum limits:
 - a. Commercial General Liability

Commercial general liability insurance limit of not less than \$1,000,000 for each occurrence, with a \$2,000,000 general aggregate limit. The general aggregate limit shall apply separately to the services under this Contract or the general aggregate shall be twice the required per occurrence limit. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual coverage, including but not limited to the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office policy form CG0001 or its equivalent.

In the event the general liability policy is written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the services as evidenced by annual certificates of insurance. In addition, the retro date shall be no later than the start date of the contract. The retro date shall be disclosed on the certificate of insurance.

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Such policy shall contain a "severability of interests" provision.

b. Worker's Compensation

The Contractor shall carry worker's compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of services; and employer's liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

In cases when services are subcontracted, the Contractor will require the subcontractor to provide worker's compensation and employer's liability to at least the same extent as provided by Contractor.

c. Automobile Liability

Commercial business automobile liability insurance with a combined single life or bodily injury and property damages of not less than \$1,000,000 per accident regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor services. Coverage will be at least as broad as coverage Code 1 "any auto". Insurance Service Office policy form CA0001 Y87 or any replacements thereof. Such coverage shall include coverage for loading and unloading hazards.

- C. Additional Insured: The insurance coverage, except for workers compensation and professional liability coverage, required by this Contract, shall name the City, its agents, representatives, directors, officials, employees, and officers, as additional insureds, and shall specify that insurance afforded the Contractor shall be primary insurance. The additional insured wording on the commercial general liability policy will be at least as broad as Insurance Services Office policy forms CG2010 04/13 edition and CG2037 04/13 edition or their equivalent. The additional insured wording on the automobile liability policy will be at least as broad as Insurance Services Office policy form CA 20 48 or its equivalent. This provision and the naming of the city as an additional insured shall in no way be construed as giving rise to responsibility or liability of the City for applicable deductible amounts under such policy(s).
- D. Coverage Term: All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted by the City. Failure to do so shall constitute a material breach of this Contract.
- E. Primary Coverage: Contractor's insurance shall be primary insurance to the City, and any insurance or self-insurance maintained by the City shall not contribute to it.
- F. Claim Reporting: Any failure to comply with the claim reporting provisions of the policies or any breach of a policy warranty shall not affect coverage afforded under the policy to protect the City.
- G. Waiver: The policies, including workers' compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, representatives, directors, officers, and employees for any claims arising out of the work or services of the Contractor.
- H. Deductible/Retention: The policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be disclosed by the contractor and shall not be applicable with respect to the coverage provided to the City under such policies. Contractor shall be solely responsible for deductible and/or self-insurance retention and the City, at its option, may require Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- I. Certificates of Insurance: Prior to commencing work or services under this Contract, Contractor shall furnish the City with certificates of insurance, or formal endorsements as required by the Contract, issued by the Contractor's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Contract are in full force and effect. Such certificates shall identify this Contract

Special Terms and Conditions

number or name and shall provide for not less than thirty (30) days advance notice of cancellation, termination, or material alteration. Such certificates shall be sent directly to: Contract Administrator, City of Tempe, P. O. Box 5002, Tempe, AZ 85280.

- J. **Copies of Policies:** The City reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the above policies and/or endorsements. The City shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.

23. **Job Site Requirements and Clean-Up:** Contractor agrees and covenants to adequately protect the work site, adjacent property and the public in all phases of the work and/or services provided herein. Contractor shall be solely responsible for all damages or injuries due to action or neglect pursuant to this section. Contractor shall maintain access to all phases of the Project pending inspection by the City or its agent. Contractor hereby agrees to the following as to the job site:

- A. Continually keep the job site free from debris, waste and accumulation of materials;
- B. Immediately clean up any oil, fuel or chemical spills and take any and all remediation necessary;
- C. Keep machinery clean and free of weeds and debris;
- D. Remove all construction stains, smears and debris from finished surfaces;
- E. Perform site preparation to limit the spread of weeds, debris and other nuisances prior to submission of final invoice to the City; and,
- F. Remove all equipment, materials, tools and Contractor's personal property prior to submission of final invoice to the City.

24. **Conduct and Dress Code:** The Contractor's employees shall maintain proper conduct at all times while on City property. Employees shall maintain a professional demeanor and show respect to other personnel at the work site. Employees will be dressed appropriately for the work with badges or uniforms that identify them as employees of the Contractor.

25. **Safety, Health and Sanitation:** The Contractor shall provide and maintain in a neat, sanitary condition such facility accommodations for the use by their employees as may be necessary to comply with the requirements and regulations of the Arizona State Department of Health or as specified by the Maricopa County Health Department, Sanitary Code. The Contractor shall be fully responsible for the safety of their employees, the public and property in connection with the performance of the work covered by this Contract. The Contractor shall provide all safeguards, safety devices and protective equipment and be responsible for taking any needed actions to protect the life and health of their employees and the public during work activity. The Contractor shall also take any necessary actions as directed by the City Project Manager to reasonably protect the life and health of employees on this job and others coming into contact with the job site. Precaution shall be exercised by the Contractor at all times for the protection of persons (including employees) and property. The Contractor shall comply with the provisions of all applicable laws, pertaining to such protection including all Federal and State Occupational Safety and Health Acts, and Standards and Regulations promulgated there under.

26. **Protection and Restoration of Property and Landscape:** The Contractor shall be responsible for all damage or injury to public or private property of any character, during the prosecution of the work resulting from any act, omission, neglect, or misconduct in its manner or method of executing the work or at any time due to defective work or materials. The Contractor's responsibility will not be released until the project has been completed and accepted.

If damage is caused by the Contractor, the Contractor shall restore at no cost to the City, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or they shall make good such damage or injury in an acceptable manner. Further payments will be withheld until the City has inspected the corrected damage or injury and has signed-off the

Special Terms and Conditions

completion and acceptance. Contractor shall not dump spoils or waste material on private or public property without first obtaining from the owner written permission for such dumping.

27. **Responsibility for Work:** The Contractor shall properly guard, protect, and take every reasonable precaution necessary against damage or injury to all finished or partially finished work due to weathering action by the elements or from any other cause, until the entire portion of their respective Contract obligation is completed and accepted by the City. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work before final acceptance at no cost to the City. Partial payment for any completed portion of work shall not release the Contractor from such responsibility.
28. **Employees of the Contractor:** No one except authorized employees of the Contractor is allowed on the premises of the City. Contractor employees are NOT to be accompanied in their work area by acquaintances, family members, assistants, or any other person unless said person is an authorized employee of the Contractor. Failure of Contractor to meet this requirement will result in permanent removal of employee performing work at the City sites.
29. **Sub-Contractor(s):** The City reserves the right to approve all sub-contractors. Contractor is responsible for all actions of sub-contractors. Contractor shall name sub-contractors as additionally insured, in addition to the City on all required insurance documents.
30. **Safety Apparel Used by Contractor Employees/Staff:** Contractor's employees/staff shall be required to wear safety apparel (i.e., eye, ear, face, protection, etc.) and appropriate clothing like long pants, long sleeve shirts, when using landscape equipment such as, but not limited to lawnmowers, blowers, weed whackers, etc. Monitoring of safe work performance will be performed by City staff.

Scope of Work

1. Introduction

- 1.1. The City of Tempe (City) is issuing this Request for Proposal (RFP) to establish a one (1) year contract to provide inspections, repairs and testing of pool/aquatics equipment and the purchase of equipment and parts on an as needed basis for the City. The Community Services Department is expected to be the main user of the contract. Resulting contract(s) may also be available for use by other cities per the Special Terms and Conditions of this RFP.
- 1.2. The City estimates that the spend under this contract could range from \$100,000 to \$200,000 annually.
- 1.3. Any resultant contract shall be subject to renewal for subsequent periods as provided for within the Special Terms and Conditions of this RFP.
- 1.4. **City of Tempe facilities that may be serviced under resulting contract:**
 - McClintock Pool
 - Kiwanis Recreation Center Wave Pool
 - Escalante Multigenerational Center Pool
 - Esquer Splash Pad
 - Jaycee Splash Pad
 - Parque de Soza Splash Pad
 - Kiwanis Park Splash Playground
 - Mayor's Fountain
 - 6th Street Fountain
 - Tempe Center for the Arts Fountain
 - Garden Angel Fountain
 - Clark Pool
 - Additional facilities may be added

2. Anticipated Awards

- 2.1. The City intends to award multiple qualified vendors to provide these services.
- 2.2. Resulting contract(s) are critical to its potential impact upon the City of Tempe and only those companies with a proven history of success in performing the required work will be considered. Experience/Technical capability and capacity is mandatory.
- 2.3. Resulting contract shall be monitored under the supervision of the Community Services Department and the City's Procurement Office.

3. RFP Communications/Inquiries

- 3.1. Upon release of this RFP, all communications shall be directed in writing, via Email, to the Procurement Officer listed below. No other agency official or employee is empowered to speak for the City or Agencies with respect to this procurement. Unauthorized contact with any employee of any department within the City of Tempe or other Agency may result in disqualification from the RFP process. Any oral communication will be considered unofficial and non-binding on the City or other Agencies.
- 3.2. The RFP number assigned to this Request **MUST** be contained in the subject line of all correspondence.

Scope of Work

3.3. Contact the following individual for clarification of this RFP:

Michael Greene
Procurement Officer
Tempe Procurement Office
Michael_Greene@tempe.gov

4. **Contractor Minimum Qualifications**

4.1. Mandatory Minimum Qualifications

- 4.1.1. Contractor must have all appropriate and current Arizona Contractor's Licenses.
- 4.1.2. Contractor shall have a minimum of five (5) years of commercial pool equipment maintenance and repair service experience.
- 4.1.3. Contractor's employees (and subcontractors) shall have a minimum of three (3) years of pool mechanical maintenance and pool repair work with pumps, filters, sanitizing systems, chemical controllers, heaters, and related equipment in the water industry.
- 4.1.4. All employees assigned to resulting contract, and driving on behalf of the Contractor, must have a valid State of Arizona driver's license.
- 4.1.5. Contractor must have valid and current AROC general contractor license, commercial pool repair license, or commercial builders/remodeling license for work to be performed under resulting contract.
- 4.1.6. It is preferred that Contractor have a Confined Space training program in place but not mandatory in order to participate in this procurement.
- 4.1.7. When working in a confined space, all Contractor's employees must have completed Confined Space training.
- 4.1.8. Contractor must be well-staffed with trained technicians and based in the Phoenix Metropolitan area.

4.2. Desired Minimum Qualifications

- 4.2.1. Able to repair and maintain chemical feeders, mixers and controllers.
- 4.2.2. Able to maintain and calibrate accurate test instruments.
- 4.2.3. Able to troubleshoot and repair equipment controlled by PLC's.
- 4.2.4. Able to demonstrate continuous effort to improve operations, decrease turnaround times, streamline work processes, and work cooperatively and jointly to provide quality seamless customer service.
- 4.2.5. Have prior experience repairing industrial equipment and must have an adequate number of tools and equipment to complete the field repairs in accordance with the manufacturer's maintenance manuals.

5. **Sample of Work to be performed by Contractors**

- 5.1. Maintain and repair aquatic facility and fountain pumps and chemical feeder systems; valves, pumps, motors, impellers, controllers, disinfectant systems such as UV systems, replace plumbing in conjunction with other repairs and air lines; install bearings in shafts and motors.
- 5.2. Maintain wave machines; maintain and repair pumps; replace bearings, valves, seals and sleeves, and repack pumps.
- 5.3. Perform regularly scheduled preventive maintenance work on aquatic facilities and fountain equipment; maintain comprehensive logs of all maintenance work done on equipment.

Scope of Work

- 5.4. Design and/or modify existing equipment and systems as needed; prepare reports and sketches of installations or changes.
- 5.5. Maintain air compressors for wave machine.
- 5.6. Weld, cut, fabricate, braze and repair on all aquatic facilities that have metal structures and parts.
- 5.7. May operate equipment such as forklifts, trenchers, bucket-lifts, small vac-equipment, and dump trucks.

6. Contractor Responsibilities

- 6.1. Contractor or subcontractor shall provide all necessary equipment, transportation, tools, replacement parts and personnel with technical expertise necessary to provide routine and preventative maintenance and repair services. Repeated and documented instances of using substandard materials, supplies, and/or personnel, or failure to provide services in a timely manner, shall constitute grounds for termination of contract.
- 6.2. The Contractor(s) shall take every reasonable precaution necessary to properly guard and protect all finished or partially finished work against damage or injury from the elements or any other cause, until the entire portion of their respective contract obligation is completed and accepted by the City of Tempe. The Contractor(s) shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work before final acceptance at no cost to the City of Tempe. Partial payment for any completed portion of work shall not release the Contractor(s) from such responsibility.
- 6.3. Contractor shall remove all waste from the City's facility and dispose of it in the proper manner.
- 6.4. Contractors' employees must be able to work with minimal supervision and/or work alongside City employee.
- 6.5. Must be able to perform related duties as assigned.

6.6. Contractor Accessibility and Work Schedule

- 6.6.1. The Contractor shall respond to all phone calls, text, or emails within 1 hour or less.
- 6.6.2. When repairs issues occur during operational hours and impact the use of a pool or attraction, the Contractor should be able to be on site for repairs within two (2) hours or less.
- 6.6.3. When repair issues do not impact the use of a pool or attraction, the Contractor should be able to be on site for repairs within twenty-four (24) hours or less.
- 6.6.4. Materials and/or equipment, furnished by the City will be delivered or made available to the Contractor when appropriate. The Contractor will be held responsible for all materials and/or equipment accepted by them and will make good any shortages, deficiencies or damages that may occur after such acceptance.
- 6.6.5. Only some trade services, such as plumbing, electrical, and heating/cooling may be subcontracted. All subcontractors performing under this contract must be approved in writing by the City's Procurement Office prior to being utilized. Requests to add new subcontractors must be submitted in writing outlining the need(s) for a subcontractor, what company will be used, and the employees' qualifications.

6.7. Performance by the Contractor

The Contractor shall perform the repairs in a timely manner and to the satisfaction of the Community Services Department or designated City representative. Because of the need to keep the equipment operating with as few disruptions as possible and because payment for the services is on an hourly basis, failure to perform the repairs on a timely basis to the satisfaction of the City shall be cause for immediate termination of the contract. Timely and/or satisfactory repairs shall be determined by the City, whose decision shall be final.

Scope of Work

In the case of any dispute arising between the City and the Contractor as to the manner of performing work, the City shall have the authority to suspend work until the question and issue can be resolved.

6.8. Inspection of Work

All work performed by the Contractor will be subject to inspection by the Community Services Aquatics Maintenance Coordinator or the designated City representative. The Community Services Aquatics Maintenance Coordinator or the designated City representative will be given access to all work in progress at any time. It will not be required that the Contractor be notified in advance of any inspection action. No payment will be made if any inspection request is denied. The Contractor shall provide any data requested and provide good lighting of all areas to enhance any inspection action. The Community Services Aquatics Maintenance Coordinator will schedule an inspection of any job in such a way that there will be no delay to the Contractor. If discrepancies are revealed through the inspection process, the Contractor shall correct these at their cost.

6.9. Delay of Work

If any work being performed by the Contractor is unnecessarily or unreasonably delayed, the City Community Services Aquatics Maintenance Coordinator or the designated City representative has the option to employ persons, machinery and materials in addition to those being used by the Contractor to complete the work required. The expenses of such actions shall be charged to the Contractor.

6.10. Safety

The Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees and subcontractors) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable federal (including OSHA), state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The Contractor's failure to thoroughly familiarize themselves with the safety provisions shall not relieve them from compliance with the obligations set forth therein.

Failure to perform work in a safe manner or in compliance with applicable safety laws and regulations shall be cause for immediate termination of the contract.

Prior to the start of work, Contractor and the City will perform a pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout/tag-out and confined space exposures.

6.10.1. Safety Apparel Used by Contractor Employees/Staff: Contractor's employees and subcontractors shall be required to wear appropriate Personal Protective Equipment (PPE).

6.10.2. Confined Space Work: The contractor shall comply with all applicable federal, state, local health and safety regulations, ordinances, and requirements. In addition, the following requirements are applicable for City construction projects. The contractor shall implement a permit-required confined space program as specified under 29 CFR 1910.146 for all work that encompasses a space that 1) is large enough and so configured that an employee can bodily enter and perform assigned work; 2) has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and 3) is not designed for continuous employee occupancy.

6.10.3. Safety Data Sheets: Contractor must agree to provide Safety Data Sheets (SDS) for all substances that are delivered to the City of Tempe, that come under the Federal requirements of 29CFR 1910 Subpart Z-Toxic and Hazardous Substances, which includes 29CFR 1910.1200- Hazard Communication

Contractor shall only use chemicals approved by the City. The Contractor shall transport and apply chemicals in the safest manner possible.

Scope of Work

Contractor shall make every attempt to apply approved chemicals with highly volatile organic compounds, outside of working hours. Adequate ventilation shall be used at all times during the application of these approved chemicals.

In conjunction with the Occupational Safety and Health Standards, Subpart-Z Toxic and Hazardous Substances, and Section 1910.1200 Hazard Communication, Contractor are hereby informed of the presence of (or possible presence) of chemicals in the area where the work requested will be performed. It is the responsibility of all selected Contractors to contact the City for specific information relative to the type of chemicals present and location of appropriate SDS.

- 6.10.4. Electrical Work: The Contractor shall comply with all applicable federal, state, and local safety and health regulations, ordinances, and requirements. The Contractor shall comply with Occupational Safety and Health Administration regulations specified in 29 CFR 1926 Subpart K - Electrical, 29 CFR 1910 Subpart S - Electrical, and 29 CFR 1910.147 The Control of Hazardous Energy (Lockout/Tagout). In addition, the Contractor shall follow industry electrical safety requirements detailed in NFPA 70E, Standard for Electrical Safety in the Workplace.

The Contractor shall provide, upon request, a copy of its energy control procedures, energized electrical work permits, written safety and health program, or any required employee training records or certifications.

7. City of Tempe Responsibilities

- 7.1. Access to City facilities.
- 7.2. Maintain preventive maintenance files.
- 7.3. Provide Operation and Maintenance (O&M) Manuals as needed.

8. Warranty and Quality of Workmanship

- 8.1. Contractor will provide a warranty of workmanship for a minimum period of one year from date of acceptance.
- 8.2. Warranties will not commence until the work/equipment is accepted by the City and placed into service. The Contractor will be responsible for the warranty of all parts and labor, regardless of whether the parts and/or labor were provided by the Contractor or their subcontractors. The Contractor must provide copies of standard warranties that will be used in the regular course of business for service repairs and parts. The Contractor must furnish a warranty for the items and services provided under this Contract in accordance with the standard warranty regularly supplied. In the event that any such repair fails to endure this minimum period, the City may elect to repair the unit in-house on an "emergency basis", and/or the Contractor will replace the subject part(s) and/or furnish the necessary labor to make good the subject repair at no additional cost to the City. Also, in the event that the repair(s) fail to endure this minimum period, the Contractor will incur all costs in transporting the unit back to Contractor's shop (if transportation is needed).
- 8.3. Exceptions to this warranty will be damage or loss due to theft, vandalism, or accidental occurrences outside the Contractor's control. A copy of manufacturer/product warranty detailing coverage shall be submitted along with the invoices. Awarded bidder(s) shall be responsible for all warranty claims.
- 8.4. The Contractor will not be responsible to provide manufactures' warranty for equipment purchased by the City.

9. Pricing and Payment Terms

9.1. Pricing

- 9.1.1. Proposer shall complete the RFP price sheet and submit with RFP Response. Proposals shall be submitted on the forms provided. Should proposer need to provide additional information, they may do so by attaching additional sheet(s) to the proposal form.

Scope of Work

- 9.1.2. Proposers may not change the price sheet in any way.
- 9.1.3. Hourly charges by the Contractor shall include all necessary labor, tools, equipment, appurtenances and all other actual and implied expenses connected thereto to perform the requirements of the contract and shall include all applicable taxes. Equipment and Repair parts shall not be included in the hourly charges.
- a. Regular Hourly Charges. Work done between the hours of 6:00 a.m. and 4:00 p.m., Monday through Friday, excluding City holidays.
 - b. Overtime Hourly Charges. Work done between the hours of 4:00p.m. and 6:00a.m., Monday through Friday, 4:00 p.m. to midnight on Friday, all day on Saturday and Sunday, midnight on Sunday to 6:00 a.m., Monday and all day on City holidays.
- 9.1.4. Should overtime be necessary or indicated, it shall be performed only after obtaining specific authorization from the Community Services Department or designated City representative. Unauthorized overtime will not be paid.

9.2. **Replacement Equipment and Parts**

- 9.2.1. The Contractor shall provide consumables/supplies at cost plus a percentage mark-up.
- 9.2.2. The Contractor shall provide a discount off list price for replacement parts and equipment. All items in the manufacturer price catalog(s) shall be available to the City at the discount offered. The discount off list price shall remain fixed for the initial contract period and renewal options. Unit price shall be the published price less the discount offered. Manufacturer's price catalog(s) must be submitted in the form Internet web-site. Updates to the referenced catalogs **must** be provided at no cost to the City when made available.
- 9.2.3. The Contractor may be required to provide pricing of repair parts, and consumables/supplies for specific jobs prior to the City authorizing purchase of the parts from the Contractor. The City reserves the right to purchase related equipment or parts directly from the manufacturer or from other vendors if it is in the City's best interest.

9.3. **Terms of Payment**

- Travel: No charge for travel time or mileage will be recognized.
- Labor: Based on hourly rate for the type of service performed, time invoiced shall be for actual time worked subject to verification/documentation approved by the Community Services Department or designated City representatives.
- Tools/Equipment: All tools, equipment, meters etc., necessary to perform contract work shall be provided by the Contractor. In the event the Contractor needs additional or separate equipment, the cost, **upon prior approval**, may be paid by the City, such becoming the property of the City.
- Invoices: Labor, Parts, and Equipment must be itemized – date of services, hours worked, and product description for each job. Each invoice must be clearly itemized, or it will be returned to the Contractor. Invoices must show unit cost and unit quantity. Warranties and O&M Manuals, supplied by the manufacturer, shall be submitted with the invoices prior to the City authorizing payment to the Contractor.

9.4. **Invoicing and Payment**

- 9.4.1. All invoicing must be e-mailed within 20 days of final acceptance of product or services. Invoicing must be itemized, only one- (1) job/project per invoice.
- 9.4.2. If a subcontractor is used, it is the responsibility of the prime Contractor to invoice for the subcontractor's services. The City of Tempe will not pay subcontractor for services performed as part of this contract.

Proposal Questionnaire

“Return this Section with your Response”

Questionnaire responses and supporting documentation provided will be used to evaluate the proposal. In order to evaluate an Offeror's overall experience and competence to perform the Scope of Work described herein, the City may rely on additional resources beyond the information provided.

	Question	Response
1.	Provide the address of the facility(s) that will support this contract. Facility must be located in the Phoenix Metro area.	Commercial Pool Repair 7721 N 68 th Avenue Glendale, AZ 85303
2.	Describe your company and provide a brief background to include years in business, number of employees, business focus, etc.	Commercial Pool Repair has been servicing the commercial swimming pool market since 1998. We are fully licensed and bonded. We provide remodel, projects, and products tailored specifically to commercial pools.
3.	Identify the key contact person for this contract to include name, e-mail address, phone number, and position title.	Robert Stockley (General Manager and Vice President) robert@commercialpoolrepairaz.com (480) 661-7788 office (480) 250-8378
4.	Describe the company's experience performing similar commercial pool related inspections, maintenance, repairs and the furnishing of pool equipment, etc.	CPR has successfully completed projects from complete facility audits (budget), full renovation, interior refinish, deck refinish, all equipment (sales, install service), wave equipment, energy efficiency, tile, chemicals, water chemistry consulting and service. We have performed this scope and more for City of Tempe and the majority of municipalities throughout AZ.
5.	Will your company use subcontractors to perform any portion of the scope of services? If so, please include services to be performed and AROC number.	Yes ☒ X No ☐ If yes, provide Sub-contractor(s) name, address, phone number and service(s) to provide. Soto and Sons Pool Plastering
6.	Describe your company's customer service philosophy.	Customer centric, we pride ourselves on prompt response. We pride ourself on our work quality and support our work product and quality. Our customers have built our business by referring our work quality over 26 years.
7.	Include three (3) references from similar customers (government or private) where equipment and services have been provided. Include a) name of account, b) phone number, c) e-mail address, d) brief description of work performed.	Reference 1 Sun City, Arizona Ray Davis (Facilities Maintenance Supervisor) Phone (623) 208-3233 email: rdavis@suncityaz.org Wide variety of projects-Renovations, Sanitation, Lighting, Heaters, UV Service, Water Chemistry, Pumps, Motors, Electrical, Plumbing and several other items. Reference 2 : City of Show Low Becca Seeley (Aquatic Manager) Phone (928)532-4134 Email-bseeley@showlowaz.gov Interior refinish, Deck, Heaters, Sanitation, Pumps, Plumbing repairs, Water Chemistry, Pumps, AOP, etc. Reference 3 Arizona State University Wide variety of projects-Renovations, Sanitation, Lighting, Heaters, UV Service, Water Chemistry, Pumps, Motors, Electrical, Plumbing and several other items.

Proposal Questionnaire

“Return this Section with your Response”

8.	Will the company provide the insurance coverages as noted on Page of the Special Terms and Conditions Section?	Yes
9.	Describe the typical delivery turnaround time from receipt of order.	24 Hours (unless special order or customer appointment)
10.	Confirm your response times for emergency call outs as well as routine calls for service.	Per customer instructions and by emergency type-we can respond within 1 hour if the customer requests.
11.	Describe the warranty terms for new equipment purchased and for workmanship (minimum of 1-year).	We follow all manufacture, state and ROC guidelines- 1 year standard (2-year registrar of contractors) and we honor longer factory warranty if in place.
12.	What kind of Contractor license does your company hold? Indicate your AROC number.	Pool Commercial Construction (all projects/construction) AZ Registrar of Contractors (KA-05) 143136
13.	Provide a list of services that your company is qualified to perform.	Construction, Plumbing, Electrical, Gas Line to unit, Equipment installation, Equipment Service, Heaters, Advanced Oxidation, Water Chemistry Consulting, Deck, Plaster, Tile, pool play equipment, Wave equipment, Sanitation Equipment, Controllers (analyzers), energy efficiency (Lighting, Heat, Covers, Variable Frequency Drives, Pumps/Motors (ALL EQUIPMENT/All Projects)
14.	How many employees does your company have employed that are qualified to perform the types of work described in the Scope of Work? Provide an overview of employee's experience, education, certifications which makes them qualified to perform the work described in the Scope of Work.	14 Total FTE Employees performing 4 Commercial Technicians (Projects/equipment) 2 Commercial Specialists (Diagnostic and light repair) 2 Project leads 1 Owner/license holder
15.	Does your company have a qualified on-call person available 24-hours a day? If yes, provided their name and number	Yes (2) Mike Stockley (480) 861-7165 cell Robert Stockley (480) 250-8378 cell
16.	Describe the quality control process utilized to ensure projects are completed to the satisfaction of Community Services	1. Precise Project plan- outline clear plan for success 2. Quality assurance. Evidence to stakeholders that all quality-related activities are being done as defined and promised. 3. Quality control identifying, analyzing, correcting problems.
17.	Describe any additional information regarding your firm and its capabilities that will aid the City in evaluating your offer.	We are prideful in our quality and our culture of quality. We are grateful to have worked on various projects for the city of Tempe (and surrounding municipalities) for the past twenty years. We look forward to continuing to deliver on our promise of a job well done.

Evaluation Criteria

Proposals will be reviewed by an Evaluation Committee consisting of City staff using the criteria and process outlined below.

Evaluation Process

1. The Procurement Office will verify that all proposals meet the requirements to be considered responsive. Responses that do not comply with any mandatory requirements will be considered non-susceptible for award and not forwarded to the Evaluation Committee for scoring.
2. The Evaluation Committee will review and score all responsive proposals and rank them based on the committee's scores. Any proposals determined to score outside of the competitive range may be removed for non-susceptibility. Remaining Offerors may be invited for interviews, negotiations, site visits and best and final offers as determined at the sole discretion of the City.

It is important to note that firms may be removed for non-susceptibility anytime during the evaluation process and not just at the specific points noted above.

	Award Criteria	Weight	X	Rating	=	Points
1.	Pricing – A review of equipment pricing discounts and labor pricing shall be considered	30	X		=	
2.	Qualifications and resources of Company to include licensing and expertise of employees	25	X		=	
3.	Experience of Company to include review of references and Subs if noted	25	X		=	
4.	Warranty terms offered	10	X		=	
5.	Ability of company to comply with City terms and conditions, overall quality of offer	10	X		=	
				Total	=	

This proposal will be evaluated on a cumulative point system using the rating scale shown below (fractional points may be selected within this range).

Scoring

<i>Outstanding</i>	9 – 10
<i>Good</i>	6 – 8
<i>Average</i>	4 – 5
<i>Poor</i>	1 – 3
<i>Not Addressed or Unacceptable</i>	0

To evaluate the cost portion of the above criteria, the City may elect to evaluate each firm on a percentage basis of the lowest cost offer. The formula would be: (Lowest Priced Offer/Evaluated Firm's Price) x Points Possible = Evaluation Points.

Pricing Section

“Return this Section with your Response”

Companies shall provide pricing for the equipment and services described herein:

ITEM NO.	DESCRIPTION OF REQUIRED MATERIAL, SERVICE OR CONSTRUCTION	UNIT	UNIT PRICE
1.	Regular Hourly Charges. Work done between the hours of 6:00 a.m. and 4:00 p.m., Monday through Friday, excluding City holidays. (SOW 9.1.3 a)	Hourly	\$115.00
2.	Overtime Hourly Charges. Work done between the hours of 4:00p.m. and 6:00a.m., Monday through Friday, 4:00 p.m. to midnight on Friday, all day on Saturday and Sunday, midnight on Sunday to 6:00 a.m., Monday and all day on City holidays. (SOW 9.1.3 b)	Hourly	\$172.50
3.	List out any other labor categories that might be applicable to the scope of work herein: Weekend	Hourly	\$172.50
4.	Holiday	Hourly	\$230.00
5.		Hourly	
ITEM NO.	Provide a description for each listed Mfg. catalog including brand name (Include a link to catalog or name the catalog)	Catalog Discount %	
a	Alladin Equipment Catalog www.aladdin1950.com	8%	
b	Antiwave Pool Products AntiWave Pool Lane Lines and Water Polo Goals	5%	
c	Aqua Creek Home - Aqua Creek (aquacreekproducts.com)	2.5%	
d	Bio Dex Bio-Dex Laboratories Pool Service Pros Trust Bio-Dex!	5%	
e	Chlorking Advanced Commercial Swimming Pool & Water Treatment Systems (chlorking.com)	Parts 5% Wole Goods 3.5%	
f	Clear Comfort Clear Comfort® AOP Systems: The Future of AOP Water Treatment	6.5%	
g	Clear Water Ozone ClearWater Tech (cwtozone.com)	4%	
h	Competitor Swimp Products Swimming Lane Lines, Pool Lane Dividers, Pool Rope Floats Competitor Swim	7.5%	
i	SR Smith Pool Deck Equipment - Pool Slides And Diving Boards S.R.Smith (srsmith.com)	7%	
j	T-Star Pool Covers Thermal Pool Covers S.R.Smith Commercial Products (srsmith.com)	3.5%	
k	Pentair Commercial Commercial Pool & Spa Solution Equipment Pentair	5%	
l	Pentair (Stark and Commercial) Commercial Pool Filtration Commercial Filters Pentair	7%	
m	Chemtrol Water Treatment Automation CHEMTROL 1 800-621-2279 (sbcontrol.com)	6%	
n	WaterCO Price List - robert@commercialpoolrepairaz.com - Commercial Pool Repair Mail (google.com)	10%	
o	Maytronics/Dolphin Dolphin Robotic Swimming Pool Cleaner Maytronics	7.5%	
p	Blue and White Industries Blue-White - Fluid metering solutions made simple™	5%	
q	Jim Bouy Jim-Buoy (jimbuoy.com)		

Pricing Section

“Return this Section with your Response”

[illegible]

Pricing Section

“Return this Section with your Response”

* Applicable Tax 8.05 %

*** State correct jurisdiction to receive sales tax on the Vendor's Offer, included in this Request for Proposal.**

Less prompt payments discount terms of ___ % ___ days/ or net thirty (30) days. (To apply after receipt and acceptance of an itemized monthly statement.) For evaluation purposes, the City cannot utilize pricing discounts based upon payments being made in less than thirty (30) days from receipt of statement.

Ordering and Invoice Instructions

Invoices shall be issued directly to the ordering department. Invoices shall be accurate and complete including the information shown below. Failure to provide a properly documented invoice may cause a delay in receipt of payment. The City will not process an invoice for payment until it has been approved by the ordering department and forwarded to Accounts Payable. The City endeavors to process invoices within 30 days after receipt of an accurate and complete document.

Invoices shall include:

1. Line item listing of all ordered items to include description of items;
2. Unit cost and extended cost for each line item;
3. Applicable Tax;
4. Payment Terms;
5. Purchase Order Number;
6. Name of selling organization clearly stated on invoice along with address;
7. Phone number and or e-mail address for contact person to clarify invoicing questions;

Invoices that do not follow the above minimum invoicing requirements will not be paid. Payment must be applied to only invoices referenced on check/payment stub. The City reserves the right to process payments via check or P-Card.

Accounting Contacts:

Carey Alf
Carlene Foster
Yesenia Loreda Flores

Letters A – H and Numbers
Letters I – Z
General AP Inquiries and AP Checks

Vendor's Offer

"Return this Section with your Response"

Offeror must complete, sign and submit this form to the Procurement Office with the proposal response. An unsigned "Vendor's Offer", late proposal response, and/or a materially incomplete response will be considered nonresponsive and rejected. Offeror is to type or legibly write in ink all information required below. A scanned copy of this page is acceptable.

Company Name: Commercial Pool Repair

Company Purchase Order Mailing Address:

Street Address: PO BOX 28397

City, State, Zip: Scottsdale, AZ 85255

Contact Person: Robert Stockley Phone Number: (480) 661-7788

E-mail Address: robert@commercialpoolrepairaz.com Cell Number: (480) 250-8378

Remit to Information

Company Name (as it appears on invoice): Commercial Pool Repair

Company Payment Remit to Address:

Street Address: PO BOX 28397

City, State, Zip: Scottsdale, AZ 85255

Company Tax Information

If a Tempe-based firm, provide Tempe Transaction Privilege (Sales) Tax No.: _____

Payment Options

Will your company accept the City's Master Card for payment? Yes ☐ No ☒

Will your company accept Payment via ACH (Automated Clearing House) for payment? Yes ☒ No ☐

THIS PROPOSAL IS OFFERED BY

REQUIRED SIGNATURE OF AUTHORIZED OFFEROR

By signing this Vendor's Offer, Offeror acknowledges acceptance of all terms and conditions contained herein and that prices offered were independently developed without consultation with any other Offeror or potential Offeror. Failure to sign and return this form with proposal response will be considered nonresponsive and rejected.


Signature of Authorized Offer

JANUARY 15, 2024

Date

ROBERT STOCKLEY

Print or Type Name of Authorized Individual

VICE PRESIDENT AND GENERAL MANAGER

Title of Authorized Individual

Anti-Discrimination Policy

“Return this Section with your Response”



COMPLIANCE WITH CITY'S ANTIDISCRIMINATION ORDINANCE NO. 02016.25

The Tempe City Council approved Ordinance No. 02016.25 that requires vendors who are being recommended for award to provide evidence of their compliance with the City's antidiscrimination policy as shown below:

Sec. 2-601. Policy.

It is declared to be the policy for the citizens of Tempe, Arizona, to be free from discrimination in public accommodations, employment, and housing, and contrary to public policy and unlawful to discriminate against any person on the basis of race, color, gender, gender identify, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, in places of public accommodation, employment, and housing; and contrary to the policy of the city and unlawful for vendors and contractors doing business with the city to discriminate, as set forth in this article.

Sec. 2-603. Unlawful Practices.

The following shall constitute a violation of this article:

For a city vendor or city contractor, because of race, color, gender, gender identify, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges or employment. City vendors and contractors of fifteen (15) or more employees shall provide a copy of its antidiscrimination policy to the Procurement Officer to confirm compliance with this article. Employers having fourteen (14) or less employees may attest in writing to compliance with this article.

Vendor Requirements

Vendors who have fifteen (15) or more employees shall include with their bid/proposal submittal a copy of its antidiscrimination policy that must mirror the City's policy as stated above. Suppliers who have fourteen (14) or less employees may include their antidiscrimination policy *or* complete a written affidavit of compliance per the attached.

To be completed by responding company and returned with submittal:

_____ Our company has 15 or more employees and has included its antidiscrimination policy that mirrors the City's policy;

xx Our company has fourteen (14) or less employees and is attaching the signed AFFIDAVIT OF COMPLIANCE WITH TEMPE CITY CODE CHAPTER 2 ARTICLE VIII SECTION 2-603(5).

Please include this document along with the company's antidiscrimination policy or the completed affidavit with offer submittal

Anti-Discrimination Policy

"Return this Section with your Response"



Only complete this document if you have 14 or less employees.

AFFIDAVIT OF COMPLIANCE WITH TEMPE CITY CODE CHAPTER 2 ARTICLE VIII SECTION 2-603(5)

Per Tempe City Code Chapter 2 Article VIII Section 2-603(5), it is unlawful for a City vendor or City contractor, because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, disability, or United States military veteran status, to refuse to hire or employ or bar or discharge from employment any person, or to discriminate against such person in compensation, conditions, or privileges of employment.

City vendors and contractors shall provide a copy of their antidiscrimination policy to City to confirm compliance with this requirement or attest in writing to compliance.

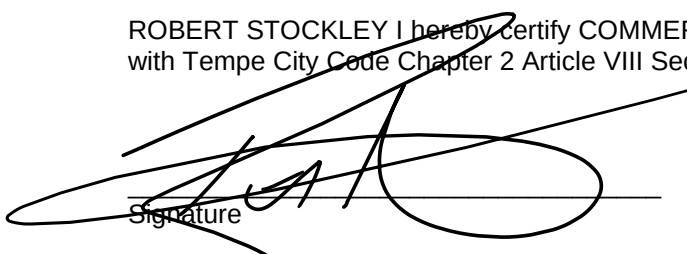
- CONTRACTOR means any person who has a contract with the City.
- VENDOR means a person or firm in the business of selling or otherwise providing products, materials, or services.

CONTRACTOR/VENDOR, select one:

_____ Current copy of antidiscrimination policy attached

OR

ROBERT STOCKLEY I hereby certify COMMERCIAL POOL REPAIR (contractor/vendor) to be in compliance with Tempe City Code Chapter 2 Article VIII Section 2-603(5).



Signature

Date: JANUARY 16, 2024

ROBERT STOCKLEY
Print Name

VICE PRESIDENT AND GENERAL MANAGER
Title

COMMERCIAL POOL REPAIR
Company

Affidavit of Compliance with House Bill 2488

“Return this Section with your Response”



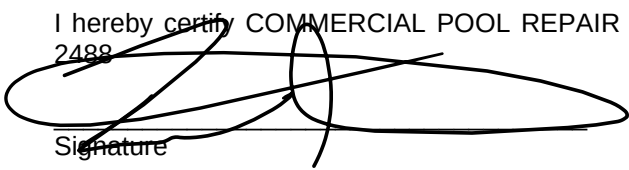
AFFIDAVIT OF COMPLIANCE WITH HOUSE BILL 2488 SUPPLIER AGREES TO NOT USE THE FORCED LABOR OF ETHNIC UYGHURS IN THE PEOPLE’S REPUBLIC OF CHINA

Per House Bill 2488 approved by the Arizona Legislature, this law stipulates that a public entity may not enter into or renew a contract with a company for the acquisition or disposition of supplies, services, goods, information technology or construction unless the contract includes written certification that the company does not currently, and agrees for the duration of the contract that it will not, use:

- The forced labor of ethnic Uyghurs in the People’s Republic of China;
- Any services or goods produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; and
- Any suppliers, contractors or sub-contractors that use the forced labor of any services or goods produce by the forced labor of ethnic Uyghurs in the People’s Republic of China

Based on the above, the supplier certifies:

I hereby certify **COMMERCIAL POOL REPAIR** (contractor/vendor) to be in compliance with Arizona House Bill 2488


Signature

1/16/2024

Date

ROBERT STOCKLEY
Print Name

GENERAL MANAGER
Title

COMMERCIAL POOL REPAIR
Company

Sustainability Questionnaire

“Return this Section with your Response”

The City of Tempe is strongly committed to sustainable practices and programs that help build a vibrant and resilient community. The City accomplishes this through a variety of innovative programs, including water and energy conservation, recycling, composting, alternative transportation, sustainable business practices and environmental stewardship. Tempe recently established its 2019 Climate Action Plan (CAP) that provides a guideline for how the City will take local action on global climate change by reducing its greenhouse gas (GHG) emissions and adapting to the changing climate. The Climate Action Plan serves as a guideline for the City's path toward a sustainable and resilient future that will benefit the entire City. The City has strengthened its commitment to sustainability by adopting a new carbon neutrality goal by 2050 and a strategy of sourcing 100 percent of its electricity from renewable sources by 2035. To learn more about the City's commitment to sustainability, please visit <https://www.tempe.gov/government/sustainable-tempe>.

To further this commitment, the City has developed a Sustainable Procurement Policy that provides specific guidelines for how these important sustainable practices and programs will be reflected in contract award decisions. By partnering with companies who share these sustainability goals, the City will be able to significantly enhance sustainable outcomes. To support these efforts, the following Supplier Sustainability Questionnaire has been developed that will allow the City to better understand your company's efforts and commitments regarding sustainable practices and initiatives. This questionnaire has two sections – a section to understand what your company is doing regarding sustainable actions and a section to understand the specific sustainable attributes of the product or service that you are offering.

Item	Question	Response
Corporate Sustainable Actions		
1.	What sustainability guidelines or environmental statement does your company have to guide the company as a whole? Please include a link.	WE WORK TO IMPROVE SUSTAINABILITY BY RECYCLING AND WORKING WITH CITIES TO INSTALL ENERGY EFFICIENT PRODUCTS
2.	What is your company doing to be more energy efficient?	CARPOOLING, ENERGY EFFICIENT PROJECTS
3.	What is your company doing to reduce greenhouse gas emissions?	PARTNERING WITH MANUFACTURES TO PROMOTE EFFICIENT PRODUCTS
4.	What is your company doing to reduce waste transferred to landfills?	RECYCLE ALL POSSIBLE RENEWABLE GOODS (PROJECT WASTE)
5.	What is your company doing to reduce water waste?	WE OFFER A NUMBER OF PRODUCTS TO REDUCE WATER IN AQUATIC FACILITIES (ESCALANTE MULTICYCLONES)
6.	What kind of effort does your company make to reduce the use of environmentally harmful materials (<i>such as cleaning products, etc.</i>)?	WE OFFER SUSTAINABLE AND ENVIRONMENTALLY FRIENDLY PRODUCTS WHEN AVAILABLE
7.	Does your company take any actions to manage the sustainability of your supply chain? If yes, please explain.	RECYCLING PROGRAM
8.	Has your company received any environmental or sustainability related independent certifications or recognitions? If yes, please explain.	NO
Product Sustainable Attributes		
1.	Has your company performed an environmental life cycle analysis on the product being offered the City? If yes, please provide documentation.	NO
2.	Can the product being offered be refurbished, recycled, or composted at the end of its life? If yes, please elaborate.	RECYCLE RENEWABLE IF POSSIBLE
3.	Does the product being offered include any recycled materials? If yes, please explain.	SOME
4.	What measures have been taken to reduce unnecessary packaging materials associated with the product being offered?	MAJOR MANUFACTURES HAVE ADOPTED TO REDUCE

Supplier Sustainability Questionnaire

“Return this Section with your Response”

5.	What kind of reusable, recyclable, and/or compostable packaging materials does your company use?	PACKAGING MATERIAL
6.	Has the product being offered been rated or certified by a third-party organization such as Energy Star, Green Seal, Leadership in Energy and Environmental Design (LEED), Forest Stewardship Council, etc.? If yes, please provide certification documentation.	VARIOUS LISTED
7.	Please provide any additional information you would like to share regarding your product's sustainable attributes.	

Please find some helpful links below that will provide additional information, tools and resources regarding sustainable practices:

Greenhouse Gas Calculators:

<https://www.epa.gov/energy/greenhouse-gases-equivalencies-calculator-calculations-and-references>

Sustainable Packaging:

<https://www.epa.gov/smm/sustainable-packaging>

<https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/containers-and-packaging-product-specific-data>

Cleaning Products:

<https://www.epa.gov/saferchoice>

Tool to Measure and Track your Waste and Recycling:

<http://www.epa.gov/smm/wastewise/measure-progress.htm>

Water Conservation:

<http://water.epa.gov/polwaste/nps/chap3.cfm>

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
LANDMARK AQUATIC SERVICES, LLC
FOR POOL EQUIPMENT AND REPAIR SERVICES**

**EXHIBIT B
Scope of Work**

City of Glendale is retaining Landmark Aquatic Services, LLC for pool equipment and repair services for the City's pools and splash pads on an as needed basis. All pool equipment and repair services shall be in accordance with the terms and conditions of the City of Tempe's Pool Equipment and Repair Services Contract No. T24-088-01.

**LINKING AGREEMENT
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EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

City shall pay Contractor for goods and services purchased in accordance with the terms, conditions, and rates of the City of Tempe Contract No. T24-088-01 available through the S.A.V.E. cooperative purchasing consortium.

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Statement of Work must not exceed \$400,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

Landmark Aquatic Services, LLC shall be paid upon completion of the contracted scope of work and quote provided and following the City's receipt of a properly completed invoice.

Invoicing: Contractor to provide invoice(s) to City of Glendale authorized representative for payment of the invoice(s) and paid in accordance with city procedures through the City of Glendale Finance Department. Any issues regarding billing or invoicing must be directed to the City of Glendale Parks and Recreation Department requesting the service or material from the Contractor. A properly completed invoice should contain, at a minimum, all of the following:

- a. Contractor name, address, and contact information;
- b. City billing information;
- c. City contract number as listed on the first page of the Agreement;
- d. S.A.V.E. contract number;
- e. Purchase Order number
- f. Invoice number and date;
- g. Payment terms;
- h. Date of service or delivery;
- i. Description of materials or services provided;
- j. If materials provided, the quantity delivered and pricing of each unit;
- k. Service addresses associated with the contract;
- l. Applicable taxes;
- m. Total amount due.

Payment of Funds: Payment will be made upon completion of work through a traditional method of a check from invoice(s) provided by the Contractor. Pricing sheets for all goods and services are included in the City of Tempe Pool Equipment and Repair Services Contract as attached in Exhibit A. Contractor shall use these pricing sheets to formulate a written quote for each project. Each project shall be quoted in writing and shall be reviewed by an authorized City of Glendale representative who shall verify that it

meets the contractual pricing before any work begins. Once a project has been completed, Contractor shall provide a detailed invoice to the City of Glendale. All invoices must match the quote provided and be confirmed by the City of Glendale authorized representative prior to paying.