

REQUEST FOR PROPOSALS

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Title: **Radio Frequency Identification System Return Shelf for Sam Garcia Library**

Solicitation Number: **NFS 20-002**

Release Date: **October 9, 2019**

NON-MANDATORY
Pre-Submittal Conference: **October 16, 2019**
11:00 a.m. (local time, Phoenix, Arizona)
Sam Garcia Library
495 E. Western Avenue
Avondale, Arizona 85323

Final Date for Inquiries: **October 18, 2019**

Proposal Due Date and Time: **October 30, 2019**
5:00 p.m. (local time, Phoenix, Arizona)

Shortlist Announced for Oral Interviews: **November 18, 2019**

Oral Interviews (if necessary): **Week of December 2, 2019**

Anticipated Agreement Start Date: **December 9, 2019**

RFP Administrator: **Marsha Chavez** mchavez@avondalez.gov
623-333-2033

* **In the event that a Vendor cannot be selected based solely on Proposals submitted, Oral Interviews may be conducted at the City's sole discretion.**

** **The City of Avondale reserves the right to amend the solicitation schedule as necessary.**

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PART I. RFP PROCESS; AWARD OF AGREEMENT

1.1 Purpose; Scope of Work. The City of Avondale (the “City”) is issuing this Request For Proposals (this “RFP”) seeking proposals (“Proposals”) from qualified, licensed firms (“Vendors”) interested in providing information technology services consisting of the acquisition of a radio frequency identification (RFID) return shelf for the Sam Garcia Library and related software (the “Services”), as more particularly described in the Scope of Work attached to the sample Purchase and Services Agreement as Exhibit B, and incorporated herein by reference. In accordance with the City’s Procurement Code, the City will accept sealed Proposals for the Services specified in the Scope of Work.

1.2 Preparation/Submission of Proposal. Vendors are invited to participate in the competitive selection process for the Services outlined in this RFP. Responding parties shall review their Proposal submissions to ensure the following requirements are met.

A. Irregular or Non-responsive Proposals. The City may consider as “irregular” or “non-responsive” and reject any Proposal not prepared and submitted in accordance with this RFP, or any Proposal lacking sufficient information to enable the City to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions may be cause for rejection. Proposals may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the City Manager or authorized designee, any of the following are true:

- (1) Vendor does not meet the minimum required skill, experience or requirements to perform or provide the Services.
- (2) Vendor has a past record of failing to fully perform or fulfill contractual obligations.
- (3) Vendor cannot demonstrate financial stability.
- (4) Vendor’s Proposal contains false, inaccurate or misleading statements that, in the opinion of the City Manager or authorized designee, are intended to mislead the City in its evaluation of the Proposal.

B. Submittal Quantities. Interested Vendors must submit **one hardcopy original** and **one PDF copy** of the Proposal on a CD-ROM or similar electronic storage device. The PDF file must be in one file. Failure to adhere to the submittal quantity criteria shall result in the Proposal being determined non-responsive.

C. Required Submittal. The Proposal shall be a maximum of **15** pages to address the Proposal criteria (excluding cover letter, resumes and the Vendor Information Form, but including the materials necessary to address project understanding, general information, organizational chart, photos, tables, graphs, and diagrams). Each page side (maximum 8 1/2” x 11”) with criteria information shall be counted. However, one page may be substituted with an

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11" x 17" sheet of paper, folded to 8 1/2" x 11", showing a proposed project schedule or organizational chart and only having information on one side. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or Proposal criteria responses. Vendors are encouraged to utilize recyclable materials and endeavor to be considerate of the environment in preparation of proposals. The minimum allowable font for the Proposal is **11 pt, Arial or Times New Roman**. Failure to adhere to the page limit, size and font criteria shall result in the Proposal being determined non-responsive. Each Proposal shall be submitted with the documents necessary to meet all of the requirements of this solicitation, including the information required in Part II and the following:

- (1) Cover letter with an **original ink signature** by a person authorized to bind the Vendor. Proposals submitted without a cover letter with an **original ink signature** by a person authorized to bind the Vendor may be determined non-responsive.
- (2) Vendor Information Form, with **original ink signature**.
- (3) References.
- (4) Project Schedule, if required.
- (5) Resumes, Licenses and Certifications (if required).
- (6) Fee Proposal, with an **original ink signature**, and the same number of copies as described in Part I, Subsection 1.2(B) (Submittal Quantities) in a separate, sealed envelope enclosed with the Vendor's Proposal. Pricing shall be inclusive of all of the Services in the Scope of Work as described in the Purchase and Services Agreement in Exhibit B. A sample Fee Proposal is attached to the Purchase and Services Agreement as Exhibit C.
- (7) Acknowledgment page, with an **original ink signature**, for any Addendum received.

D. Vendor Responsibilities. All Vendors shall (1) examine the entire RFP, (2) seek clarification of any item or requirement that may not be clear, (3) check all responses for accuracy before submitting a Proposal and (4) submit the entire Proposal by the Proposal Due Date and Time. Late Proposals will not be accepted. A Vendor submitting a late Proposal shall be so notified. Negligence in preparing a Proposal shall not be good cause for withdrawal after the Proposal Due Date and Time.

E. Sealed Submittals. All Proposals shall be sealed and clearly marked with the RFP number and title, **(NFS 20-002) Radio Frequency Identification Return Shelf for Sam Garcia Library**, on the lower left-hand corner of the mailing envelope. A return address must also appear on the outside of the sealed Proposal. The City is not responsible for the pre-opening of, post-opening of, or the failure to open, any Proposals not properly addressed or identified.

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F. Address. All Proposals shall be directed to the following address: City Clerk, 11465 West Civic Center Drive, Suite 200, Avondale, Arizona 85323, Attention: Marsha Chavez, Senior Buyer. Proposals must be received in the City Clerk's office by the Proposal Due Date and Time indicated on the cover page of this RFP. Telegraphic (facsimile), electronic (e-mail) or mailgram Proposals will not be considered.

G. Pricing Errors. If price is a consideration and in case of error in the extension of prices in the Proposal, the unit price shall govern. Periods of time, stated as number of days, shall be calendar days.

H. Proposal Irrevocable. In order to allow for an adequate evaluation, the City requires the Proposal to be valid and irrevocable for **120** days after the Proposal Due Date and Time indicated on the cover of this RFP.

I. Amendment/Withdrawal of Proposal. At any time prior to the specified Proposal Due Date and Time, a Vendor (or designated representative) may amend or withdraw its Proposal. Any erasures, interlineations, or other modifications in the Proposal shall be initialed in **original ink** by the authorized person signing the Proposal. Facsimile, electronic (e-mail) or mailgram Proposal amendments or withdrawals will not be considered. No Proposal shall be altered, amended or withdrawn after the specified Proposal Due Date and Time.

1.3 Cost of Proposal Preparation. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Vendor is responsible for all costs incurred in responding to this RFP. All materials and documents submitted in response to this RFP become the property of the City and will not be returned.

1.4 Inquiries.

A. Written Inquiries. Any question related to the RFP, including any part of the Scope of Work, shall be directed only to the RFP Administrator whose name appears on the cover page of this RFP. Questions shall be submitted in writing, via e-mail or hard copy by the date indicated on the cover page of this RFP. Any correspondence related to the RFP shall refer to the title and number, page and paragraph. However, the Vendor shall not place the RFP number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Proposal and may not be opened until the Proposal Due Date and Time. Any Vendor found to be communicating with any member of City staff about this solicitation shall be prohibited from submitting a proposal, or if a proposal is received, such proposal shall be deemed non-responsive.

B. Inquiries Answered. All inquiries must be directed to the RFP Administrator. Verbal or telephone inquiries **will not be answered** and Vendors attempting to do so will be directed to submit written inquiries. The RFP Administrator shall provide a compilation of all questions received in writing with official answers that will be made available on the City's

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website at <https://www.avondaleaz.gov/procurement>. The RFP Administrator shall endeavor to post the compilation not later than five days after the inquiry deadline.

C. Pre-Submittal Conference. A Pre-Submittal Conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this RFP. If the Pre-Submittal Conference is designated as mandatory, failure to attend shall render that Vendor's Proposal non-responsive. Vendors are strongly encouraged to attend those Pre-Submittal Conferences designated as non-mandatory. The purpose of this conference will be to clarify the contents of this RFP in order to prevent any misunderstanding of the City's requirements. Any doubt as to the requirements of this RFP or any apparent omission or discrepancy should be presented to the City at this conference. The City may issue a written amendment or addendum to this RFP. Oral statements or instructions are provided for informational purposes only and do not become a part of this RFP. Any change to the RFP shall be made in the form of an addendum.

1.5 Addenda. Any addendum issued as a result of any change in this RFP shall become part of the RFP and must be acknowledged in the Proposal submittal. Failure to indicate receipt of the addendum may result in the Proposal being rejected as non-responsive. It shall be the Vendor's responsibility to check for addenda issued to this RFP. Any addendum issued by the City with respect to this RFP will be posted on the City's procurement website at www.avondaleaz.gov/procurement.

1.6 Payment Requirements; Payment Discounts. Any Proposal that requires payment in less than 30 calendar days shall not be considered. Payment discounts of 30 calendar days or less will not be deducted from the Proposal Price in determining the low Proposal. The City shall be entitled to take advantage of any payment discount offered, provided payment is made within the discount period. Payment discounts shall be indicated on Price Sheet.

1.7 Federal Excise Tax; Transaction Privilege Tax. The City is exempt from Federal Excise Tax, including the Federal Transportation Tax. Transaction privilege tax, sales tax, or use tax, if any, shall be included in the unit price for each line item. It shall not be considered a lump sum payment item.

1.8 Public Record. All Proposals shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

1.9 Confidential Information. If a Vendor believes that a Proposal or protest contains information that should be withheld from the public record, a statement advising the RFP Administrator of this fact shall accompany the submission and the information shall be clearly identified. The information identified by the Vendor as confidential shall not be disclosed until the City Manager, or authorized designee, makes a written determination. The City Manager, or authorized designee shall review the statement and information with the City Attorney and shall determine in writing whether the information shall be withheld. If the City Attorney determines that it is proper to disclose the information, the RFP Administrator shall inform the Vendor in writing of such determination.

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1.10 Vendor Licensing and Registration. Prior to the award of the Agreement, the successful Vendor shall (A) be registered with the Arizona Corporation Commission and authorized to do business in Arizona and (B) have a completed Vendor Registration Packet on file with the City Finance and Budget Department. The Vendor shall provide licensure information with the Proposal. Corporations and limited liability companies shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission.

1.11 Certification. By submitting a Proposal, the Vendor certifies:

A. No Collusion. The submission of the Proposal did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.

C. No Gratuity. It 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 City employee, officer or agent in connection with the submitted Proposal. It (including the Vendor's employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the City Manager, Assistant City Managers, Department Heads, and other City staff. All inquiries must be addressed to the City's RFP Administrator. Any attempt to influence the selection process by any means shall void the submitted Proposal and any resulting Agreement.

D. Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Agreement.

E. No Signature/False or Misleading Statement. The signature on the cover letter of the Proposal and the Vendor Information Form is genuine and the person signing has the authority to bind the Vendor. Failure to sign the Proposal and the Vendor Information Form, or signing either with a false or misleading statement, shall void the submitted Proposal and any resulting Agreement.

F. Purchase and Services Agreement. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample Purchase and Services Agreement including the Scope of Work and other Exhibits.

1.12 Award of Agreement.

A. Selection. A Selection Committee composed of representatives from the City will conduct the selection process according to the schedule listed on the cover page of this

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RFP. Proposals shall be opened at the time and place designated on the cover page of this RFP. The name of each Vendor and the identity of the RFP for which the Proposal was submitted shall be publicly read and recorded in the presence of witnesses. PRICES SHALL NOT BE READ. The Selection Committee shall award the agreement to the responsible and responsive Vendor whose Proposal is determined, in writing, to be the most advantageous to the City and best meets the overall needs of the City taking into consideration the evaluation criteria set forth in this RFP. The amount of applicable transaction privilege or use tax of the City shall not be a factor in determining the most advantageous Proposal. After the City has entered into an Agreement with the successful Vendor, the successful Proposal and the scoring documentation shall be open for public inspection.

B. Line Item Option. Unless the Proposal states otherwise, or unless otherwise provided within this RFP, the City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

C. Multiple Award. The City, at its sole discretion, may elect to enter into Agreements with multiple Vendors who are qualified to provide the Services. The final terms and conditions of the proposed Agreement will be negotiated by the City with the successful offerors.

D. Form of Agreement. The selected Vendor will be required to execute the City's standard Purchase and Services Agreement in a form acceptable to the City Attorney. A sample of the standard agreement is included with this RFP. If the City is unsuccessful in negotiating an Agreement with the highest-scoring Vendor, the City may then negotiate with the second, then third, highest-scoring Vendor until an Agreement is executed. City Council approval may be required. The City reserves the right to terminate the selection process at any time.

E. Waiver; Rejection; Reissuance. Notwithstanding any other provision of this RFP, the City expressly reserves the right to: (1) waive any immaterial defect or informality, (2) reject any or all Proposals or portions thereof and (3) cancel or reissue an RFP.

F. Protests. Any Vendor may protest this RFP, the proposed award of an Agreement, or the actual award of an Agreement. All protests will be considered in accordance with the City Procurement Code.

1.13 Offer. A Proposal is an offer to contract with the City based upon the terms, conditions and specifications contained in this RFP and the Vendor's responsive Proposal, unless any of the terms, conditions, or specifications are modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the Vendor has signed, and the City has approved, a purchase and services agreement between the City and the Vendor in the form acceptable to the City Attorney. A sample Purchase and Services Agreement is included herein.

PART II. PROPOSAL FORMAT; SCORING

2.1 Evaluation Process. Each submittal will be reviewed for compliance with the Proposal requirements by the Selection Committee. If necessary, the Selection Committee may conduct oral interviews with up to three of the highest ranked Vendors based upon the Proposal submittal scoring.

2.2 Proposal Format and Scoring. Proposals shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements shall result in a determination that the Proposal is non-responsive. Additionally, the Selection Committee will evaluate and award points to each Proposal based upon the evaluation criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria; there is no minimum number that the Selection Committee must award.

A. General Information - 10 pts.

(1) One-page cover letter as described in Part I, Subsection 1.2(C) (Required Submittal).

(2) Provide Vendor identification information. Explain the Vendor's legal organization including the legal name, address, identification number and legal form of the Vendor (e.g., partnership, corporation, joint venture, limited liability company, sole proprietorship). If a joint venture, identify the members of the joint venture and provide all of the information required under this section for each member. If a limited liability company, provide the name of the member or members authorized to act on the company's behalf. If the Vendor is a wholly owned subsidiary of another company, identify the parent company. If the corporation is a nonprofit corporation, provide nonprofit documentation. Provide the name, address and telephone number of the person to contact concerning the Proposal.

(3) Identify the location of the Vendor's principal office and the local work office, if different. Include any documentation that supports the Vendor's authority to provide services in Arizona.

(4) Provide a general description of the Vendor's organization, including years in business.

(5) Identify any contract or subcontract held by the Vendor or officers of the Vendor that have been terminated within the last five years. Briefly describe the circumstances and the outcome.

(6) Identify any claims arising from a contract which resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcome.

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(7) Vendor Information Form, with an **original ink signature** (may be attached as separate appendix).

B. Experience and Qualifications of the Vendor - 20 pts.

(1) Provide a detailed description of the Vendor's experience in providing similar services to municipalities or other entities of a similar size to the City, specifically relating experience with respect to RFID return shelves installed at libraries.

(2) Vendor must demonstrate successful completion of at least three similar projects within the past 60 months. For the purpose of this Solicitation, "successful completion" means completion of a project within the established schedule and budget and "similar projects" resemble this project in size, nature and scope. Provide a list of at least three organizations for which you successfully completed a similar project. This list shall include, at a minimum, the following information:

- (a) Name of company or organization.
- (b) Contact name.
- (c) Contact address, telephone number and e-mail address.
- (d) Type of services provided.
- (e) Dates of contract initiation and expiration.

These references will be checked, and it is Vendor's responsibility to ensure that all information is accurate and current. Vendor authorizes the RFP Administrator to verify all information from these references and releases all those concerned from any liability in connection with the information they provide. Inability of the City to verify references may result in the Proposal being considered non-responsive.

(3) The RFP Administrator may conduct any investigation deemed necessary to determine the Vendor's ability to perform the project. Vendors may be requested to submit additional documentation within 72 hours (or as specified) to assist the City in its evaluation.

C. Project Approach - 20 pts.

(1) Describe the Vendor's approach to performing the required Services in the Scope of Work described in the Purchase and Services Agreement in Exhibit B, and its approach to contract management, including its perspective and experience on partnering, customer service, quality control, scheduling and staff.

(2) Describe any alternate approaches if it is believed that such an approach would best suit the needs of the City. Include rationale for alternate approaches and indicate how the Vendor will ensure that all efforts are coordinated with the City's Representatives.

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(3) Describe your business philosophy on pricing structure and what the City could anticipate for pricing increases down the line for maintenance and support as well as any necessary license(s). Please do not list any pricing specifics. This response should be philosophical in nature.

D. Scenarios - 20 pts.

(1) Describe how you would handle the following: a single shelf on a unit stopped recognizing when materials were placed on it.

(2) Describe how you would handle the following: a customer encounters a problem(s) that could be considered a design flaw(s).

(3) Describe how you would handle the following: returned items have missing or bad RFID tags and can't be read by the unit.

(4) Describe how you would handle the following: any service request. What is the process and response time for requests?

(5) Describe how you would handle the following: patrons attempting to return items in a manner not recognized by the shelf (i.e. – in large stacks, spine out, spine up, etc.). What are the tolerances for materials returned on the shelf?

(6) Describe how you would handle the following: you're on-site doing installation and a client discovers that they need to adjust something in their infrastructure (i.e. add a server to communicate with the kiosk) and it poses a problem for the client and delays the project. How do you handle this? What sort of documentation is presented to prepare clients for the full infrastructure requirements?

E. Project Schedule - 20 pts.

Provide a project schedule showing key project milestones and deliverables. The schedule shall demonstrate Vendor's ability to meet the designated milestones as listed below. All Services of the successful Vendor must reach full completion and shall not exceed a 60-day period after the Notice to Proceed has been issued by City. Assumptions used in developing the schedule shall be identified and at a minimum the proposed schedule shall include the following dates.

- (1) Purchase Order Issuance
- (2) Proposed Kick-Off Meeting
- (3) Delivery Date
- (4) Installation Date
- (5) Training Date(s)
- (6) Completion Date

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F. Pricing - 10 pts.

Vendor shall submit the same number of copies of the Fee Proposal as described in Part I, Subsection 1.2(C)(6) in a separate, sealed envelope enclosed with the Vendor's Proposal with the signature of the representative of the Vendor who is authorized to make such an offer. The Fee Proposal must be provided in the format attached as Exhibit C of the Purchase and Services Agreement. The Fee Proposal shall list the individual cost for each of the program expenses and shall be provided in a spreadsheet format to enable the City staff to determine (1) total labor hours, (2) key team member(s) proposed for each task and sub-task and (3) number of management and support personnel hours proposed for the project. The hourly rate, name of the team member and staff classification shall be included in the spreadsheet. Identify all other costs to be billed to the project, including project expenses (no mark-up on expenses will be allowed) and subcontractor fees.

Total Possible Points for Proposal:

100

PART III. ORAL INTERVIEWS; SCORING

In the event that a Vendor cannot be selected based solely on the Proposals submitted, up to three Vendors may be selected for oral interviews. The selected Vendors will be invited to participate in discussions with the Selection Committee on the date indicated on the cover page of this RFP and awarded points based upon the criteria as outlined below. Vendors may be given additional information for these oral interviews, which may include product demonstration.

Oral Interview

| | |
|------------|---|
| 20 | Experience and Qualifications of the Vendor |
| 40 | Scenarios |
| <u>40</u> | Project Approach |
| 100 | Total Possible Points for Oral Interview |

Total Points Possible for this RFP:

200

CITY OF AVONDALE
NEIGHBORHOOD & FAMILY SERVICES DEPARTMENT
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SECTION A

PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Purchase and Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

VENDOR SUBMITTING PROPOSAL

FEDERAL TAX ID NUMBER

PRINTED NAME AND TITLE

AUTHORIZED SIGNATURE

ADDRESS

TELEPHONE

FAX #

CITY STATE ZIP

DATE

WEB SITE: _____

E-MAIL ADDRESS: _____

ARIZONA CORPORATION COMMISSION FILE NO. _____

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- _____ Small Business Enterprise (SBE)
- _____ Minority Business Enterprise (MBE)
- _____ Disadvantaged Business Enterprise (DBE)
- _____ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

If yes, please provide details and documentation of the certification.

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**PURCHASE AND SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND**

THIS PURCHASE AND SERVICES AGREEMENT (this "Agreement") is entered into as of _____, 2019, between the City of Avondale, an Arizona municipal corporation (the "City") and _____, a(n) _____ (the "Consultant").

RECITALS

A. The City issued a Request for Proposals, XX-XXXX "THE TITLE" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors for _____ (the "Services").

B. The Consultant respond to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Consultant hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until _____, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Renewal Terms. After the expiration of the Initial Term, this Agreement shall automatically renew for up to four successive one-year terms (each, a "Renewal Term"), subject to availability and appropriation of funds for renewal in each subsequent year, unless the Contractor notifies the City in writing of its desire to terminate the Contract. The City of Avondale Procurement Office will review fully documented requests for price increases after any contract has been in effect for one (1) year. Any price increase adjustment will only be made at the time of contract extension and will be a factor in the extension review process. The City of Avondale Procurement Office will determine whether the requested price increase or an alternate option is in the best interest of the City. Any price adjustment will be effective upon the effective date of the contract extension. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

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SECTION B

1.2.1 Software Licensing and Maintenance. This contract shall be automatically renewed beyond the term stated above in Section 1.2 for any related software licensing and maintenance, and such shall remain in place for the life of the purchased equipment under this contract subject to availability and appropriation of funds for each fiscal year.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Consultant shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Consultant claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. This is an indefinite quantity and indefinite delivery agreement for Services as described in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. Services shall only be provided when the City identifies a need and proper authorization and documentation have been approved. For project(s) determined by the City to be appropriate for this Agreement, the Consultant shall provide the Services to the City on an as-required basis relating to the specific Services agreed upon between the parties in a written acknowledgment (each, a "Task Order"). Each Task Order issued for Services pursuant to this Agreement shall be (i) in the form provided and approved by the City for the Services, (ii) contain a reference to this Agreement and (iii) be attached to hereto as Exhibit D and incorporated herein by reference. By signing this Agreement, Consultant acknowledges and agrees that Task Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Task Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Consultant from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement. If the Agreement is renewed pursuant to Subsection 1.2 above and such renewal includes any Unauthorized Conditions, other than price, those terms will be null and void.

3. Compensation. The City shall pay Consultant an amount not to exceed \$____.00 for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

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6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign personnel to fill the role of project manager, or related functional position, to carry out the implementation of this project. If deemed qualified, the Consultant is encouraged to hire City residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, assigned personnel shall not be removed or replaced without prior written notice to the City. If, for any reason, Consultant requires a change in assigned personnel, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Information Technology.

7.1 Limited Access. If necessary for the fulfillment of this Agreement, the City may provide Consultant with non-exclusive, limited access to the City's information technology infrastructure. Consultant understands and agrees to abide by all City policies, standards, regulations and restrictions regarding access and usage of City's information and communication technology resources. Consultant shall enforce all such policies, standards, regulations and restrictions with all Consultant's employees, agents or any tier of subcontractor granted access in the performance of this Agreement, and shall be granted and authorized only such access as may be necessary for the purpose of fulfilling the requirements of this Agreement. Consultant's employees, agents and subcontractors must receive prior, written approval from City before being granted access to the City's information and communication technology resources and data. The City, in its sole discretion, shall determine accessibility and limitations thereto. Consultant agrees that the requirements of this Section shall be incorporated into all subcontractor/subconsultant agreements entered into by the Consultant. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. Notwithstanding the provisions in Section 13.2, a violation of this Section may result in immediate termination of this Agreement without notice.

7.2 Data Confidentiality. All City data, regardless of form, including originals, images and reproductions, prepared by, obtained by or transmitted to Consultant in connection with this Agreement, are confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Consultant shall not, without the prior, written consent of the City Manager or authorized designee, (i) disclose data generated in the performance of the Services to any third party or (ii) use City data and information.

7.3 Data Security. Personal identifying information, financial account information, or restricted City information, whether in electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Consultant must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices. When City information, regardless of its format, is no longer required by the Consultant to execute the work contracted by the City, the

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information must be redacted or destroyed through appropriate and secure methods to ensure the information cannot be viewed, accessed or reconstructed.

7.4 Compromised Security. In the event that data collected or obtained by the Consultant in connection with this Agreement is believed to have been compromised, Consultant shall immediately notify the City Manager, or authorized City designee. Consultant agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data by the Consultant and, where applicable, the cost of notifying and/or assisting individuals who may be impacted by the breach.

7.5 Cessation of Operation or Support. If Consultant ceases to operate, ends support of, or otherwise divests its interest in the software and materials for which it is contracted by the City and does not assign the obligation of the Services at reasonable cost as set forth in this Agreement, the Consultant shall provide the City a copy of current source code. The City agrees it shall only use the source code to support its use of the software.

7.6 Disengagement. In the event the contract is terminated by either party, Consultant agrees to confer back to the City all of its data, in usable and normalized format, within 30 days of notice of contract termination. There shall be no charge for the return of City data to the City.

7.7 Survival. The obligations of Consultant under this Section 7 shall survive the termination of this Agreement.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.

10. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are

SECTION B

caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Named Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping

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coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage, but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and

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declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant’s insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

K. Endorsements. Consultant shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for

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claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant’s owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant’s work or services under this Agreement. Coverage will be at least as broad as ISO coverage code “1” “any auto” policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers’ Compensation Insurance. If Consultant employs anyone who is required by law to be covered by workers’ compensation insurance, Consultant shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant’s employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

12.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days’ prior written notice to the City.

13. Termination; Cancellation.

13.1 For City’s Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the

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City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were

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appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to, nor will they combine business operations under this Agreement.

14.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

14.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations; (B) existing and future State and Federal laws; and (C) existing and future Occupational Safety and Health Administration standards.

14.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Consultant.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included

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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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

14.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

14.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as 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 this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

14.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

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14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Consultant any amounts Consultant owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Consultant any amounts Consultant owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: Charles A. Montoya, City Manager

With copies to: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: Marsha Chavez, Senior Buyer
 Attn: Michael Wawro, City Attorney

If to Consultant: _____

 Attn: _____

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above

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governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

14.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. For any contract with a value of One Hundred Thousand Dollars or greater (\$100,000.00) Consultant certifies that it is not currently engaged in, and agrees for the

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duration of this Agreement that it will not engage in a “boycott,” as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Consultant’s Proposal, the documents shall govern in the order listed herein. If the Agreement is renewed pursuant to Subsection 1.2 above and such renewal includes any conflicting terms, other than price, those terms will be null and void.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions (“Eligible Procurement Unit(s)”) are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

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

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

“Consultant”

_____,
a(n) _____

By: _____

Name: _____

Title: _____

EXHIBIT A
TO
PURCHASE AND SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Consultant's Proposal]

See following pages.

EXHIBIT B
TO
PURCHASE AND SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Scope of Work]

See following page(s).

SCOPE OF WORK

Radio Frequency Identification System Return Shelf for Sam Garcia Library NFS 20-002

Introduction

- I. The City of Avondale (the “City”) currently has a population of approximately 83,000 residents and circulates approximately 66,000 items annually at its Sam Garcia Western Avenue Library (the “Library”). The Library is open 50 hours per week with 4 of those hours being unstaffed. The Library sees around 95,000 visitors annually, many from other cities serviced by our county-wide reciprocal borrowing agreement. Our staffing at this location consists of 5.25 FTE positions. The Library has goals focusing on outreach, community engagement, and improved literacy. To meet these goals, the Library needs to address:
 - a. Lack of staff time
 - b. Properly allocating staff time when available

- II. To free up staff time to meet our goals, the Library currently has a time/print management solution in the computer labs, self-service copy/scanner, a triple-corridor security gate system, two (2) RFID self-checkout kiosks, and one (1) four (4)-bin automated materials handler (AMH). However, the AMH has gone past end of life and support and needs to be replaced.

- III. The Library currently utilizes RFID tagging technology to handle all circulation and has a sorter room with an interior AMH patron induction interface. All RFID tags used are Bibliotheca RFID square tags, meeting ISO 18000-3 mode 1 and ISO 15693 air interface protocols. The Library uses barcode-only encoding for all RFID tags and items are singly tagged. Tags are located on the interior book cover or the inside of the AV cover insert.

Objective

- I. The City is seeking a new RFID return shelf system and to achieve the following:
 - a. Convenience of independent patron returns in real-time
 - b. Limited staff monitoring and intervention
 - c. Reporting of materials returned
 - d. Ease of shelving from return shelf

- II. The Consultant shall provide a proven RFID return shelf system for the City which includes the functionalities described herein (the “System”) and qualified professional services for the delivery, installation, correct configuration, support, and training of such hardware and computing software to render a fully-functional solution.

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- III. The Consultant shall remove the existing sorter, a 3M brand, model Selfcheck Sorter 3101.

Proposals shall be for hardware solutions provided by the Consultant. Consultants are permitted and encouraged to submit a Fee Proposal for each proposal solution.

Requirements

- I. System Specifications and Requirements. The System shall meet the following requirements as applicable:
- a. General
 - i. Trouble-free operation and easy maintenance for staff for ten years or more
 - ii. Modular design that allows for expansion of equipment solution if the design needs to be expanded to meet patron demand or building renovation in the future
 - 1. Shelf Requirements
 - a. A 3-5 shelf system on wheels that can be shelved from.
 - b. A patron kiosk to print receipts and verify returns.
 - c. 99% check-in accuracy
 - d. City prefers that check-in time per item should not exceed four (4) seconds. Deviations from this must be noted in Consultant’s proposal.
 - e. Complete shelf unit must fit within the dimensions of the existing sorter area: 72” x 32”
 - f. Proposals must include any and all electrical and IT infrastructure requirements for return shelf and kiosk

| 1. Shelf - Hardware | Preferred | Required |
|---|------------------|-----------------|
| 1.1 Multi-Item return | | ✓ |
| 1.2 Shelf system is detachable from the kiosk | ✓ | |
| 1.3 Ability for patrons to print check-in receipts | ✓ | |
| 2. Shelf - Software | Preferred | Required |
| 2.1 Currently supported Windows OS edition compatible | | ✓ |
| 2.2 Windows 10 | ✓ | |
| 2.3 Include anti-virus software or allow installation of City’s own anti-virus software | | ✓ |

CITY OF AVONDALE
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SECTION B

| | | |
|--|--|---|
| 2.4 Software interface must be able to communicate in real-time with Polaris ILS via SIP2 or similar secure protocol or connection | | ✓ |
| 2.5 Ability for staff to be notified of holds or transfers returned on shelf | | ✓ |

EXHIBIT C
TO
PURCHASE AND SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Fee Proposal]

See following page(s).

CITY OF AVONDALE
NEIGHBORHOOD & FAMILY SERVICES DEPARTMENT
NFS 20-002

SECTION B

FEE PROPOSAL

Radio Frequency Identification System Return Shelf for Sam Garcia Library
NFS 20-002

| Item Description | Year 1 |
|--|------------|
| | \$ Amounts |
| 1. Project Products & Services – RFID Return Shelf* | |
| 1.1 Project Management | |
| 1.2 Shelf System (per unit) | |
| 1.3 Patron Kiosk | |
| 1.4 Software | |
| 1.5 Delivery | |
| 1.6 Breakdown of existing sorter equipment | |
| 1.7 Haul away & disposal of existing sorter | |
| 1.8 Installation | |
| 1.9 Configuration | |
| 1.10 Implementation and Testing | |
| 1.11 Production roll-out | |
| 1.12 Project training and documentation | |
| 1.13 [Other] | |
| Total | \$ |

| Item Description | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|------------------------------|------------|------------|------------|------------|------------|
| | \$ Amounts | \$ Amounts | \$ Amounts | \$ Amounts | \$ Amounts |
| 2. RFID Return Shelf* | | | | | |
| 2.1 Licenses | | | | | |
| 2.2 Maintenance & Support | | | | | |
| 2.3 [Other] | | | | | |
| Total | \$ | \$ | \$ | \$ | \$ |

| Item Description | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|---|------------|------------|------------|------------|------------|
| | \$ Amounts | \$ Amounts | \$ Amounts | \$ Amounts | \$ Amounts |
| 3. RFID Return Shelf Add On Options* | | | | | |
| 3.1 [Options] | | | | | |
| 3.2 [Options] | | | | | |
| Total | \$ | \$ | \$ | \$ | \$ |

| | | | | | |
|--------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Grand Total Cost of Proposal* | \$ | \$ | \$ | \$ | \$ |
|--------------------------------------|-----------|-----------|-----------|-----------|-----------|

*All proposals are presumed to include all applicable taxes.

EXHIBIT D
TO
PURCHASE AND SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Task Order(s)]

To be attached subsequent to execution.