

CITY OF TUCSON
NOTICE OF REQUEST FOR QUALIFICATIONS NO. 151310
ON CALL PLAN REVIEW SERVICES

Notice is hereby given that the City of Tucson, hereinafter referred to as "COT" is conducting a competitive ONE-STEP process to retain up to EIGHT (8) CONSULTANTS to provide professional on call plan review services for miscellaneous projects. Individual projects not to exceed \$ 50,000.00

COT invites interested firms to submit written Statements of Qualifications (SOQ's) relating to this solicitation. A Screening Committee will evaluate firms' qualifications and experience with similar projects. The firm(s) determined to be best qualified will then be invited to enter into negotiations with COT for billing rates under the contract.

A copy of this solicitation and possible future amendments may be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number. The City does not mail out Notices of available solicitations via the U.S. Postal Service. Email notifications are sent to those interested offerors who are registered with us and who have selected email as their preferred delivery method. To register, please visit www.tucsonprocurement.com click on Vendors, then click on Vendor Registration. You may also call (520) 791-4217 if you have questions.

Statements of Qualifications (SOQ's) for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

SOQ's must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late submittals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Submittals must be submitted in a sealed envelope. The Request for Qualifications number and the offeror's name and address should be clearly indicated **on the outside** of the envelope. All submittals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

****ALERT****

The City of Tucson has implemented additional security procedures in City Hall. Effective June 3, 2013, all visitors will be required to enter only through the north side doors facing Alameda Street. When attending a meeting or delivering a solicitation response to City Hall, please allow ample time to go through the security screening process.

Visitors will be required to do the following:

- Pass through metal detectors / security wands;
- Purses and bags will be searched by security personnel;
- Obtain a visitor's pass.

SUBMITTAL DUE DATE:
SUBMITTAL LOCATION:

Monday, August 31, 2015 AT 4:00 P.M. Local AZ Time
Department of Procurement
255 W. Alameda, 6th Floor, Tucson, AZ 85701
P.O. Box 27210, Tucson, AZ 85726-7210

PRE-SUBMITTAL CONFERENCE DATE:
TIME:
LOCATION:

Tuesday, August 18, 2015
10:00 A.M., Local AZ Time
City Hall, 1st Floor East Conference Room,
255 W. Alameda, Tucson, AZ 85701

QUESTIONS SHALL BE DIRECTED TO:

Dan Longanecker, CPPB, Principal Contract Officer
520.837.4125
Dan.Longanecker@tucsonaz.gov.

Publish Dates: Friday, August 07, 2015 & Friday, August 14, 2015

SCOPE OF WORK

I. INTRODUCTION

The City of Tucson, hereinafter referred to as "City", intends to hire up to EIGHT (8) consultants to perform expedited plan review on an "as-needed", "if-needed" basis, as specified herein. The successful consultants may perform both Internal (2nd Party) and External (3rd Party) plan review for the Planning and Development Services Department (PDSD).

II. DETAILED SERVICES

1. REQUIREMENTS

A. Consultants shall adhere to all applicable requirements while performing work under this Contract, as specified in Chapter 1 of the International Building Code, the most current and applicable building codes with the respective local amendments, Development Standards, and the Floodplain Ordinance; as well as with the applicable Arizona Revised Statutes; and any other applicable codes and manuals; as they may apply to the services provided.

B. Consultant's responsible supervisor(s) shall be registered by the State of Arizona to practice the services required herein. Plan reviewers shall be certified as such by the International Code Council (ICC) or shall be a registered architect or engineer in the State of Arizona. Registration and/or Certification number is to be submitted to Development Services annually.

2. GENERAL

A. The Consultant shall perform plan review for conformance with the applicable Trade Codes (Adopted Building, Fire, Existing Building, Electrical, Mechanical, Plumbing, Energy Conservation and Outdoor Lighting Codes), General Plan, Land Use Code, Development Standards and Floodplain Ordinance, local ordinances, Arizona Revised Statutes, and any other relevant laws and regulations, and related functions for the City in accordance with the terms described herein. Consultant understands and agrees that this is not an exclusive contract. The City's authorized staff will determine when to utilize the services described herein.

3. QUALITY OF WORK

A. The Consultant shall be responsible for the completeness and accuracy of all services rendered, and for the correction of all errors and omissions committed while performing said services, at no additional cost to the City of Tucson.

4. DOCUMENTATION

A. All calculations, notes, and documents produced by the Consultant while performing under this contract shall be presented to and shall become property of the City. The Consultant may retain the originals and prepare copies of said documents for the City at the Consultant's expense.

5. PLANS AND SPECIFICATIONS

A. The City shall provide the Consultant with one set of plans, specifications, calculations and any other related documents to the Consultant at no charge. The City may provide these documents in an electronic format.

B. Consultant may make copies of said documents, at their expense, to use as a check set and note corrections/changes required to meet the applicable codes, ordinances, etc.

C. The consultant shall retain all noted check sets and related documents for a period of at least twelve (12) months from the date of approval.

6. PLAN REVIEW FINDINGS AND APPROVAL

A. The Consultant, upon completion of the inspections of the review shall submit to the PDS and the applicant, if applicable for External (3rd Party) reviews, a written itemized list, in a mutually agreed upon format, which describes all the necessary corrections required in order to obtain structural, architectural, ADA approval. The Consultant may also make corrections in writing to the permit card information and notify the City of such. The Consultant shall also sign the appropriate plan review record.

B. Should the consultant find the submitted comments in compliance with all of the applicable codes, ordinances, etc., related to the applicable plan review, an approval letter signed by the consultant shall be forwarded to the Planning and Development Services Department and the applicant, and the consultant shall sign the appropriate plan review record and the plans.

7. ADVICE AND CONSULTATION

A. The Consultant shall be available, during City working hours, to the Planning and Development Services Department staff for advice and consultation services regarding the interpretation of the review documents, and review comments during the course of this Contract, at no additional expense to the City.

B. Within 24 hours upon request by the Planning and Development Services Department, the Consultant shall be available during City working hours for conference with applicants and owners to answer questions regarding the plan review comments produced under this Contract.

8. WORK LOCATION

A. The City will not provide any workspace, facilities, or equipment for the purpose of plan review, except for scheduled conferences and single trade Internal (2nd Party) reviews which shall take place at PDS.

9. CONFLICT OF INTEREST

A. The Consultant shall not have a private or personal interest in the plans under review. See City of Tucson Administrative Directive No. 2.02-14 for further discussion on "Conflict of interest".

10. INTERNAL (2nd Party) PLAN REVIEW

A. Under an Internal or 2nd Party Plan review, the consultant shall supplement PDS review staff in order to meet plan check requirements. The Consultant shall be responsible for reviewing plans for compliance with City of Tucson Building, Plumbing, Mechanical and Electrical Codes. PDS does not currently have an Electrical reviewer in-house and Mechanical and Plumbing expertise is limited as well. As such, PDS is seeking Consultant teams that provide expertise in Plumbing, Mechanical and Electrical reviews. Engineering, Zoning, Water and Fire reviews shall still be completed by PDS.

B. Once the PDS has determined that a certain project should be sent to the Consultant for a complete 2nd Party plan review, the consultant shall be notified. The Consultant shall make the necessary arrangements for transfer of the documents from PDS. The plans will be available for pick up on the day of notification. Plans not picked up within one work day of notification will be re-assigned to another agency. Unless approved otherwise by PDS, the plan review shall be completed no later than five (5) working days for residential and twenty (20) working days for commercial plans up to \$5,000,000.00 from the date of notification. The review period for plans having a valuation over \$5,000,000.00 shall be negotiated prior to issuance of the notice to proceed.

Failure to meet the established review deadlines may be cause for the City seeking contractual remedies including and up to contract termination.

C. It is the City's intent to issue work assignments to a pool of up to EIGHT (8) consultants on a rotating/sequential basis as needed. Should the consultant not be able to perform such services, for any reason, at the time of assignment, then the work may be assigned to the next consultant in line, and the Consultant shall be moved to the bottom of the list.

However, circumstances may warrant that work assignments may not be issued on a rotating/sequential basis and instead shall be issued in a manner that is in the best interest of the City.

In some cases, a single-trade review will be requested by PDSO. Those reviews will take place at the Department as a part of the integrated in-house review process.

11. EXTERNAL (3rd PARTY) PLAN REVIEW

A. Any permit applicant, pending PDSO approval, may be allowed to use the Consultants services under an External or 3rd Party Review. The consultant shall contract independently with the applicant and the review fee will be negotiated between the review agency and the client (not PDSO). As with Internal Reviews, Engineering, Zoning, Water and Fire reviews shall still be completed by PDSO. In addition:

- PDSO reserves the right to limit by valuation any plan or project taken to 3rd Party.
- Valuations are determined by the PDSO Director.
- Plans shall be submitted to PDSO and have the contract signed prior to review by the review agency.
- If an applicant chooses to use third party plan review they must use an entity which is on the PDSO list of active third party plan review agencies.
- If a party uses third party review they are responsible for:
 - a. Tracking their plan at the third party review agency.
 - b. Obtaining review comments from the third party review agency and not Development Services.
 - c. Managing the review performance of the third party plan review agency since in most instances the third party plan review agency will require the execution of a separate contract between itself and the party utilizing their services.
 - d. Dealing with any payment, timing of review, or quality of review disputes arising from use of third party plan review or the third party plan review agency.

III. COMPENSATION AND METHOD OF PAYMENT FOR INTERNAL (2ND Party) REVIEW

1. INTERNAL (2nd PARTY) PLANS REVIEW FOR PDSO

A. In consideration of the performance of the services described in the Scope of Services, the City shall pay the Contractor a fee based on either the PDSO standard hourly rate sum or according to the following rates of compensation, as may be applicable to the particular area or areas contracted for by the City:

- Structural/Architectural at 40% of the plan review fee as established, and as may be revised by the City.
- Electrical at 10% of the plan review fee as established, and as may be revised by the City.
- Plumbing and Mechanical at 10% each of the plan review fee as established, and as may be revised by the City.

2. INVOICING

A. The invoice, valuation table and/or the hourly rate of review and number of review hours are to be provided at the time the plans are returned to Development Service. The Planning and Development Service activity number, and the address of the project are to be clearly stated on the invoice.

INSTRUCTIONS TO OFFERORS

1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

For purposes of this solicitation and subsequent contract, the following definitions shall apply:

City: The City of Tucson, Arizona

Contract: The legal agreement executed between the City and the Contractor/Consultant.

Contractor/Consultant: The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.

Contract Representative: The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and is responsible for monitoring and overseeing the Contractor's performance under this Contract.

Director of Procurement: The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

May: Indicates something that is not mandatory but permissible.

Offeror: The individual, partnership, or corporation who submits a proposal in response to a solicitation.

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.

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

2. PRE-SUBMITTAL CONFERENCE: If scheduled, the date and time of a Pre-submittal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-submittal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Qualifications due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Qualifications in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Qualifications or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Qualifications. Oral statements or instructions will not constitute an amendment to this Request for Qualifications.

3. INQUIRIES: Any question related to the Request for Qualifications shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the submittal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Qualifications number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official submittal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Qualifications will be binding.

4. AMENDMENT OF REQUEST FOR QUALIFICATIONS: The Offeror shall acknowledge receipt of a Request for Qualifications Amendment by signing and returning the document by the specified due date and time.

5. FAMILIARIZATION OF SCOPE OF WORK: Before submitting a statement of qualifications, each Offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a statement of qualifications will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

6. PREPARATION OF STATEMENT OF QUALIFICATIONS:

A. All submittals shall be on the forms provided in this Request for Qualifications package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.

B. At a minimum, your statement of qualification should include the signed Offer form, signed copies of any solicitation amendments and your response to all evaluation criteria.

C. The Offer page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer Page, solicitation Amendment(s), or cover letter accompanying the submittal documents shall constitute an irrevocable offer to

sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.

- D. The authorized person signing the submittal shall initial erasure, interlineations or other modifications on the submittal.
- E. It is the responsibility of all offerors to examine the entire Request for Qualification package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a response. Negligence in preparing a submittal confers no right of withdrawal after due date and time.
- F. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
- G. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.

7. SUBMITTAL FORMAT: An original and 3 copies (4 total) should be submitted on the forms and in the format specified in the solicitation. The original copy of the proposal should be clearly labeled "Original", single-sided and unbound. The material should be in sequence and related to the solicitation. **The sections of the submittal should be tabbed and clearly identifiable.** Offerors shall also submit one electronic copy of the proposal on cd disc or jump drive in MS Office 2010 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal

The City will not provide any reimbursement for the cost of developing or presenting the submittals in response to this solicitation. Failure to include any requested information may have a negative impact on the evaluation and/or may result in the rejection of the offeror's submittal.

8. EXCEPTIONS TO CONTRACT PROVISIONS: To the fullest extent permitted by law, Consultant, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Consultant relating to work or services in the performance of this Contract, but only to the extent caused by negligence, recklessness or intentional wrongful conduct including but not limited to, any Subconsultant or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Consultant's and Subconsultant's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the extent arising from the acts or omissions of the City. If Consultant or any of Consultant's employees are certified to receive a premium tax credit or cost sharing reduction which triggers a §4980H (a) or (b) penalty against the City, the Consultant shall indemnify the City from and shall pay any assessed tax penalty.

9. PUBLIC RECORD: All statements of qualifications submitted in response to this Request for Qualifications shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.

10. CONFIDENTIAL INFORMATION: The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a submittal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

11. CERTIFICATION: By signature on the Offer page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.

12. **WHERE TO SUBMIT STATEMENT OF QUALIFICATIONS:** In order to be considered, the Offeror must complete and submit its submittal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Qualifications page. The Offeror's submittal shall be submitted in a sealed envelope. The words "SEALED SUBMITTAL" with the REQUEST FOR QUALIFICATIONS TITLE, REQUEST FOR QUALIFICATIONS NUMBER, SUBMITTAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.
13. **LATE SUBMITTALS:** Late submittals will be rejected.
14. **OFFER PERIOD:** In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the submittal due date and time.
15. **WITHDRAWAL OF SUBMITTAL:** At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the submittal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
16. **CONTRACT NEGOTIATIONS:** At the completion of the evaluation process, the City may enter into negotiations with the top ranked Offeror to determine fees, and to negotiate any other portion of the Contract deemed by the City to be necessary. In the event that the City is not able to negotiate successfully with the top ranked Offeror, the City shall cease negotiations with that Offeror and either begin negotiations with the next ranked Offeror or may choose to cancel the solicitation in its entirety. In the event that the City is not able to negotiate successfully with the next ranked Offeror, the City shall cease negotiations with that Offeror and either begin negotiations with the third ranked Offeror or may choose to cancel the solicitation in its entirety. Award shall be made to the Offeror whose submittal and subsequent negotiation is most advantageous to the City.
17. **VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.
18. **CITY OF TUCSON BUSINESS LICENSE:** It is the responsibility of the Contractor to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email at tax-license@tucsonaz.gov.
19. **UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.
20. **AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:
 - (1) waive any immaterial defect or informality; or
 - (2) reject any or all proposals, or portions thereof; or
 - (3) reissue the Request for Qualifications.

A response to this solicitation is an offer to enter into negotiations and contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Submittals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. All of the terms and conditions of the solicitation shall be incorporated in the Contract, unless any of the terms and conditions are modified by a solicitation amendment, a contract amendment, or by mutually agreed terms and conditions in the final contract documents.

21. **SUBMITTAL RESULTS:** The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.
22. **PROTESTS:** A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Qualification shall be received at the Department of Procurement not less than five (5) working days before the Request for Qualification due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:

- A. The name, address, and telephone number of the protestant;
- B. The signature of the protestant or its representative;
- C. Identification of the Request for Proposal or Contract number;
- D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
- E. The form of relief requested.

SELECTION PROCESS

The selection process is provided below for both one-step and two-step solicitations:

• One-Step - Statement of Qualifications (SOQ)

For One-Step solicitations, a qualified committee will evaluate the SOQ's submitted and determine the offeror(s) most qualified to enter into negotiations for a contract.

• Two-Step – Presentation/Interviews

Under a Two-Step process, a qualified committee will short-list the offerors based on the SOQ with the short-listed offerors being invited to participate in Presentations/Interviews with the intent of selecting the most qualified firm to enter into negotiations for a contract.

Under a Two-Step process, scoring will not be cumulative from the short-listing to the second-step (Presentations/Interviews). Scoring criteria for the Presentations/Interviews may be different from the first step as stated herein with the committee making its final selection following the second-step.

The committee shall rank the firms on the stated criteria with the intent of entering into negotiations with the highest qualified firm for each contract.

I. STATEMENT OF QUALIFICATIONS (SOQ)

All submittals shall include any and all forms provided in this solicitation package. It is permissible to copy these forms as required. The offer form shall be submitted with a signature by the person authorized to sign the submittal. Erasures, interlineations, or other modifications in the submittal shall be initialed by the person authorized to sign the submittal. Periods of time, stated as a number of days, shall be in consecutive calendar days. It is the responsibility of all offerors to examine the entire solicitation package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before sending in a submittal. Negligence in preparing a submittal confers no right of withdrawal after due date and time.

Submittal for the projects shall be limited to the items listed below. Firms are advised to follow guidelines and submit only the requested information:

- A) Cover Letter
- B) Statement of Qualifications in response to the Evaluation Criteria
- C) Offer Page

A. COVER LETTER

Expressing interest in the project and identifying a single individual as point of contact for any future correspondence. (Suggested 2 Pages maximum)

B. EVALUATION CRITERIA

Firms will be screened based on evaluation of the following criteria, which are listed in relative order of importance.

- Experience and Qualifications of Team (30 points)
- Qualification of the Firm (25 points)
- Available Resources (25 points)
- Firm Experience on Similar Projects (20 points)

1. EXPERIENCE AND QUALIFICATIONS OF TEAM (30 points)

- A. Provide experience and qualifications of key team members including any licenses, registrations or certifications applicable to the proposed work. Identify team experience on similar projects and the extent of team involvement including time commitment. Please include the following:
- Responsible principal and primary staff shall present evidence of “hands on” experience in site design, engineering, hydrology, and structural design and code review of the following disciplines: planning, floodplain, technical building codes, accessibility guidelines and Development Standards.
 - Demonstrate specific experience and qualifications in Electrical, Plumbing and Mechanical review.

2. QUALIFICATIONS OF FIRM (25 points)

- A. Submit qualifications of the firm and explain why your firm is especially well qualified to perform the required services. Please identify the internal policies and procedures that will be used to assure a quality product and completion of the project on schedule and within budget. Include qualifications of any critical subconsultants or subcontractors. Please include the following items in your response:
- List any specific qualifications in supplying the specified services, including professional registration numbers and the ICC and AICP certificate numbers.

3. AVAILABLE RESOURCES TO COMPLETE THE PROJECT (25 points)

- A. Describe the analytical tools, resources or methodologies commonly used by your firm that may be applicable to the project categories. Indicate the availability of the resources. Submit a typical Organizational Chart of personnel to be assigned to a project together with the specific aspects of the project to which the designated individual will be involved. The chart should show the estimated time commitments of project manager and core project staff as a percentage of the unit total time for a project. The chart should clearly show if team members are from local or other offices or from associated firms. Describe internal measures that will be used to ensure timely completion.

4. FIRM EXPERIENCE ON SIMILAR PROJECTS (20 points)

- A. Provide the experience of the proposed firm on similar contracts. Identify type and location of similar work to illustrate the work quality. List specific references that may be contacted. Include contact information. Show how the experience relates to the categories outlined.

II. PRESENTATIONS/INTERVIEWS

Not applicable in this one-step process.

RFQ SUBMISSION CHECKLIST

- A. Cover Letter
- B. Signed Offer
- C. Statement of Qualifications
- D. Any and All RFQ Amendments Signed

SPECIAL TERMS AND CONDITIONS

1. **SOFTWARE COMPATABILITY:** For the purposes of aiding the Consultant in the performance of their obligation under this Contract, the City shall furnish upon request all relevant data in the City's possession and shall direct City officers, agents and employees to render all reasonable assistance to Consultant in connection with Consultants performance under this Contract. The provision of such aid, assistance, information or services as received from the City shall in no way relieve the Consultant from obligations under this Contract. The City does not warrant the compatibility of City furnished data, either electronic or in any form, with the Consultant's software. All costs associated with data conversion or software upgrades and conversions shall be borne by the Consultant.

2. **INSURANCE:** The Contractor agrees to:
 - A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least thirty (30) calendar days prior to termination, cancellation, or reduction in coverage in any policy.

 - B. The Commercial General Liability Insurance and Commercial Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.

 - C. Provide and maintain minimum insurance limits as applicable.

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Project	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$1,000,000
III. Workers' Compensation (applicable to the State of Arizona)*¹	
Per Occurrence	Statutory
Employer's Liability	\$1,000,000
Disease Each Employee	\$1,000,000
Disease Policy Limit	\$1,000,000
IV. Professional Liability (Errors & Omissions) - In addition to I, II, III (Licensed, registered or certified individuals expected to follow usual and customary standards of their profession i.e., Architects, Construction Managers @ Risk, Financial Services, Engineers, Physicians, Attorneys, Insurance Agents, Interpreters, consultants. If the information provided by the professional is to be used by the City in a decision making process that may have an impact to life, health, safety, and/or a significant financial impact to the City and the public.)	
Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

*¹ Sole Proprietor/Independent Contractor designation is given to those who desire to waive their rights for workers' compensation coverage and benefits as outlined in ARS§ 23-901 and specifically ARS § 23-961 (O). If applicable, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.

- D. ADDITIONAL INSURANCE REQUIREMENTS:** All policies shall include, or be endorsed to include, the following provisions:
1. A waiver of subrogation endorsement in favor of the City of Tucson, for losses arising from work performed by or on behalf of the Contractor.
 2. The insurance afforded the contractor shall be primary insurance and that any insurance carried by the City of Tucson and its agents, officials or employees shall be excess and not contributory.
 3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- E. NOTICE OF COVERAGE MODIFICATIONS:** Any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the City of Tucson. Such notice shall be sent directly to the Department of Procurement.
- F. ACCEPTABILITY OF INSURERS:** Contractors insurance shall have an "A.M. Best" rating of not less than A-VII. The City of Tucson in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- G. VERIFICATION OF COVERAGE:** Contractor shall furnish the City of Tucson with certificates of insurance (ACORD form or equivalent approved by the City of Tucson) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.
- All certificates and endorsements are to be received and approved by the City of Tucson before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work and remain in effect for the duration of the contract and two (2) years after completion. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal upon the City's request, is a material breach of contract.
- All certificates required by this Contract shall be sent directly to the Department of Procurement.
- The City of Tucson project/contract number and project description shall be noted on the certificate of insurance. The City of Tucson reserves the right to require complete copies of all insurance policies required by this Contract at any time.
- H. SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the City of Tucson separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- I. EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self- Insurance
- J. Professional liability insurance** carried by the consultant must cover all elements of the project including professional services performed by subcontractors. If the consultant's professional liability insurance does not provide coverage for work performed by subcontractors, separate project insurance will be required to comply with the professional liability insurance requirement. The City may require a copy of the professional liability insurance policy to verify coverage.

- 3. PROJECT AWARD:** The City intends to solicit proposals from multiple firms when practicable, or if required by the funding Agency. However, the City reserves the right to award individual Projects under this contract in any way deemed to be in the best interest of the City. The City shall not reimburse consultants for the cost of proposal preparation. Each project shall be negotiated and approved by the City Project Manager or designee prior to issuance of Notice to Proceed. The consultant shall not begin any work prior to receipt of Notice to Proceed. Individual projects not to exceed \$ 50,000 unless a written waiver is obtained from the Director of Procurement.
- 4. CONTRACT TERM AND RENEWAL:** The term of this contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Consultant agrees that the parties shall have the right, to renew the Contract for two (2) additional two (2) year periods, or portions thereof. In the event that the parties exercise such rights, all terms, conditions, and provisions of the original contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.
- 5. RATE ADJUSTMENT:** The City will review fully documented requests for rate adjustment after any contract has been in effect for one (1) year. Any rate adjustment will only be made at the time of contract extension and will be a factor in the extension review process. The City will determine whether the requested rate adjustment or an alternate option, is in the best interest of the City. Any rate adjustment will be effective upon the effective date of the contract extension.
- 6. PRINCIPAL CONSULTANT'S RESPONSIBILITY:** The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Contract. The Consultant shall without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services. Additionally, when modification to a construction contract is required because of an error or deficiency in the services provided under this Professional Design Services Contract, the City shall consider the extent to which the Consultant may be reasonably liable.

Neither the City's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Consultant shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Consultant's negligent performance of any of the services furnished under this Contract.

If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

The Consultant agrees that the work to be performed pursuant to this agreement shall be under the full authority and responsible charge of the undersigned principal of the firm or officer of the corporation who must be the holder of a current Arizona Certificate of Registration issued by the Board of Technical Registration for the practice of professional design services in the State of Arizona.

Any drawings, plans, specifications, and estimates to be prepared pursuant to this agreement shall be prepared by or under the personal direction of the undersigned qualified holder of an Arizona Certificate of Registration issued by the Arizona Board of Technical Registration.

The Consultant shall be responsible for the completeness and accuracy of all services rendered and correction of all errors of omission or commission on the drawings, specifications, and other documents notwithstanding prior approval by the City.

By signing the Contract, the Consultant affirms that it has the ordinary skill, knowledge, and judgment possessed by members of its profession, and that it will use reasonable and ordinary care and diligence in performing the work.

- 7. COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See http://www.tucsonprocurement.com/coop_partners.aspx and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf> for a listing of participating agencies. The parties agree that these lists are subject to change.

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 Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
3. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
4. **ARBITRATION:** It is understood and agreed that no provision of the Contract relating to arbitration or requiring arbitration shall apply to or be binding upon the City except by the City's express written consent given subsequent to the execution of the Contract. However, if both parties agree, disputes may be resolved through arbitration. The dispute shall be resolved as provided for in A.R.S. Sec. 12-1501, et seq. Consultant shall continue to render the services required by this Contract without interruption, notwithstanding the provisions of this section.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
7. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
8. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
9. **CONFIDENTIALITY OF RECORDS:** The 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. 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.
10. **CONFLICT OF INTEREST:** Subconsultants who design and/or develop specifications for materials for this project will be precluded from contract award for that item if a solicitation is issued for the item.
11. **CONTRACT MODIFICATIONS:** No work outside of the contracted scope of work shall begin without an executed Contract Amendment and a written Notice to Proceed. Contractor shall notify COT immediately when projected hours for individuals under contract are within no less than 20% of exceeding the proposed hours. All direction regarding tasks, deliverables and level of effort shall originate with the designated City Project Manager/Contract Representative or the Department of Procurement. No direction shall be taken from, nor shall any work commence with direction from, any other party.
12. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
 - A. Amend the contract or enter into supplemental verbal or written agreements;
 - B. Grant time extensions or contract renewals;
 - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

- 13. CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.
- 14. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
- 15. DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
- 16. EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- 17. FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

- 18. FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, 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 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 results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 19. GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the

performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

20. HUMAN RELATIONS: Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.

21. INDEMNIFICATION: To the fullest extent permitted by law, Consultant, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Tucson and Regional Transportation Authority (RTA), its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Consultant relating to work or services in the performance of this Contract, but only to the extent caused by negligence, recklessness or intentional wrongful conduct including but not limited to, any Subconsultant or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Consultant's and Subconsultant's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the extent arising from the acts or omissions of the City. If Consultant or any of Consultant's employees are certified to receive a premium tax credit or cost sharing reduction which triggers a §4980H (a) or (b) penalty against the City, the Consultant shall indemnify the City from and shall pay any assessed tax penalty.

22. INDEPENDENT CONTRACTOR: It is understood that each party shall 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 party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, holidays, paid vacation, sick days, or pension contributions by the City. The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses. Contractor is responsible for compliance with the Affordable Care Act for Contractor and any of Contractor's employees.

23. INSPECTION AND ACCEPTANCE: All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.

24. INTERPRETATION-PAROLE EVIDENCE: This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.

25. LICENSES: Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

26. LIENS: All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.

27. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.

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

29. OVERCHARGES BY ANTITRUST VIOLATIONS: The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

30. PATENT INFRINGEMENT: The Consultant and the surety shall defend any suit or proceeding brought against the procuring agency, during the prosecution or after the completion of the work, based on a claim that manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark or copyright and the Consultant shall pay all damages and costs awarded therein, against the procuring agency and any affected third party or political subdivision. If manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Consultant shall, at its own expense, either procure for the procuring agency the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or replace same with noninfringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so it becomes noninfringing.

If appropriate, the Consultant shall furnish the City Contract Representative satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes, as the case may be.

31. PAYMENT: The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

The Contractor's payment terms shall apply to all purchases and to all payment methods.

32. PROTECTION OF GOVERNMENT PROPERTY: The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

33. PROVISIONS REQUIRED BY LAW: Each and every provision of law and any clause required by law to be in the Contract shall 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 shall be amended to make such insertion or correction.

34. RECORDS: Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.

Consultant shall maintain all pertinent files, records, and documents which relate to the delivery of the services provided in this Contract. Supporting documents, files, and records shall be retained by Consultant for at least five (5) years after the termination of this Contract.

35. RIGHT TO ASSURANCE: Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.

- 36. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- 37. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
- 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 valid provision or application.
- 39. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- 40. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.
- 41. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
- 42. SUSPENSION OF WORK:**
- A. The City may order the Consultant, in writing, to suspend, delay, or interrupt all or any part of the work under this Contract for the period of time that the City determines appropriate for the convenience of the City.
 - B. The Consultant agrees that no charges or claims for damages shall be made against the City for any delays or hindrances during the progress of this Contract. Such delays or hindrances, if any will be covered by an extension of time for such reasonable period as mutually agreed upon between the parties. It is agreed and understood, however, that permission to proceed with the Contract after the established completion date, shall not be construed as a waiver by the City of any of the rights herein.
- 43. TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

- 44. TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
- 45. WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

OFFER

TO THE CITY OF TUCSON:

The Undersigned hereby offers and agrees to enter into negotiations with the City to provide the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the solicitation.

For clarification of this offer, contact:

Name: _____

Phone: _____

Fax: _____

E-mail: _____

Company Name

Address

City State Zip

Signature of Person Authorized to Sign

Printed Name

Title