



REQUEST FOR QUALIFICATIONS

CALL FOR ARTISTS

CONTRACT NUMBER: 321236

BOND ROADWAY IMPROVEMENTS PUBLIC ART

MAYOR

SKIP HALL

CITY COUNCIL

ROLAND F. WINTERS, JR., District 1
ALY CLINE, District 2
PATRICK DUFFY, VICE MAYOR, District 3

KEN REMLEY, District 4
JACK HASTINGS, District 5
CHRIS JUDD, District 6

CITY MANAGER

MICHAEL FRAZIER

Solicitation issued on behalf of the Surprise Arts and Cultural Advisory Committee

May 13, 2021



REQUEST FOR QUALIFICATIONS
CALL FOR ARTISTS; BOND ROADWAY
IMPROVEMENTS PUBLIC ART

Procurement Division
16000 N. Civic Center Plaza
Surprise, Arizona 85374
Phone: (623) 222-3700
Fax:(623) 222-1801

COVER SHEET

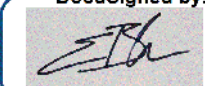
The City of Surprise is seeking Statements of Qualifications for the public art related to the bond funded roadway improvement projects for the Surprise Arts & Cultural Advisory Commission per the Solicitation herein. This Solicitation will be a two phase selection. The first phase will consist of review and selection of Offerors based on the qualification criteria herein that will result in a short list of qualified Offerors. The second phase will consist of the short listed Offerors submission of a conceptual artistic proposal, and the Selection Committee’s review and selection of the conceptual artistic proposal submissions.

In accordance with the City Procurement Code, competitive sealed SOQ’s will be received via the City’s e-Procurement Portal, ProcureNow (<https://secure.procurenow.com/portal/surpriseaz>) until the date and time cited in this document. **Late responses will not be considered.** Offerors must carefully read the entire RFQu package.

The entire information package can be downloaded and any information regarding the requirements of this RFQu may be through the City’s e-Procurement Portal.

The City shall not be held responsible for any oral instructions or formal documentation of any information exchange during a pre-submittal meeting. Any changes to this Request for Qualifications will be in the form of a published amendment. All technical questions regarding this Request for Qualifications must be submitted in writing via the City’s e-Procurement Portal.

Please reference Contract# 321236 in all your communications to the City.

DocuSigned by:

955981F9DE77487...

Eric Boyles. CPPO, CPPB
Procurement Manager



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RFQu SCHEDULE

RELEASE RFQu	5/13/2021
OPTIONAL PRE-SUBMITTAL MEETING	6/3/2021 at 2:00 P.M.; Local Time Virtual Meeting; Link to Register Pre-Submittal Registration
FINAL DATE/TIME FOR QUESTIONS	June 10, 2021 at 4:00 P.M.; Local Time Questions will not be accepted after this date and time
RFQu DUE DATE/TIME	June 24, 2021 at 11:00 A.M.; Local Time Submittals will not be accepted later than RFQu Due Date/Time, (Local Time), in the City's e-Procurement Portal
ESTIMATED SHORT LIST NOTIFICATION	July 7, 2021
ESTIMATED REVIEW OF CONCEPTUAL ARTISTIC PROPOSALS	August 4, 2021
ANTICIPATED RECOMMENDATION TO CITY COUNCIL	September 7, 2021
ANTICIPATED CONTRACT AWARD	September 17, 2021

Direct all questions regarding this Request for Qualifications through the ProcureNow Question/Answer Tab via the City's e-Procurement Portal, on or before the question deadline.

Publication: AZ Business Gazette and City of Surprise website at: <https://www.surpriseaz.gov/bids.aspx>
 Date(s): 5/13/2021, 5/20/2021



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OFFER

OFFER

The undersigned hereby certifies on behalf of the named entity that:

- o Reasonable diligence has been exercised in the preparation of this submission;
- o All contents are true, accurate, and complete to the best of the signer’s knowledge;
- o The undersigned has the authority to make this Offer and to bind the entity named below; and
- o No exceptions to the RFQu are taken, unless noted within the Term & Conditions exception form.

The undersigned further certifies that the entity named below IS or IS NOT currently debarred, suspended, or proposed for debarment by any governmental entity. The undersigned agrees to notify the City of any change in this status, should one occur, before the time an award has been made under this Request for Qualifications.

The undersigned, on behalf of the entity named below, hereby offers to enter into negotiations with the City if selected, in compliance with all terms, conditions, specifications in and amendments to the Request for Qualifications #321236. By making this offer, the entity will be contractually bound to provide these services if the offer is accepted by the City and a contract is executed.

Name:		Telephone:	
Company Name:		Fax:	
Address:		Authorized Signature for Offer	
City, St. Zip:		Title:	
DUNS #:		email	



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INSTRUCTIONS TO OFFERORS

1. OFFER SUBMISSION, DUE DATE AND TIME: Offers in response to this Solicitation shall be submitted via the City's e-Procurement Portal via ProcureNow (<https://secure.procurenw.com/portal/surpriseaz>). Offers shall be received before the date/time listed in the solicitation's "RFQu DUE DATE/TIME" field.

2. PREPARATION OF SOQ:

- a) All SOQs must be on the forms provided in this Request for Qualifications package. It is permissible to copy these forms if required. Faxed or e-mailed responses will not be considered.
- b) The Offer and Contract Award document must be submitted via the City's e-Procurement Portal with a signature by a person authorized to sign the offer.
- c) Erasures, interlineations, or other modifications in the RFQu must be initialed in original ink by the authorized person signing the Offer.
- d) Periods of time, stated as a number of days, will be calendar days.
- e) It is the responsibility of all prospective offerors to examine the entire Request for Qualifications package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a SOQ. Negligence in preparing a SOQ confers no right of withdrawal after SOQ due date and time.

3. SOQ FORMAT: SOQs shall be submitted via the City's e-Procurement Portal. SOQ submissions are limited to a maximum of thirty (30) pages in length, excluding the Offer & Acceptance page, Past Performance Verification Exhibits, and any other required forms. Adherence to the maximum page criteria is critical; each page side with evaluation criteria information will be counted. Pages and tabs that have photos, charts, graphs or criteria information will be counted towards the maximum number of pages. The SOQ shall be submitted with the following sections:

a) Offer and Acceptance

The first section of the SOQ shall contain the Offer and Acceptance Form. The Offer and Acceptance Form shall be signed by an authorized representative of the company such as the owner, partner, or in the case of a corporation, the President, Vice President, Secretary, or other corporate officer(s) that is permitted to contract on behalf of the organization.

b) SOQ Response (30 Pages)

The SOQ response should address the following evaluation criteria.

Statement of Interest:

Identification of artist, including name, address, telephone number, fax number, website URL and email address. The statement must include the signature of the artist or an officer of the Offeror authorized to contract for work. The statement must state the Offeror's reasons for interest in this project, description of how his/her work and/or experience relates to the project, and approach to creation of public art.

Artist's Portfolio:

The Offeror shall provide examples of previous work within the last 7 years. A maximum of 10 examples is permitted. Include the following information for your previous work:

The Medium of the artwork

Dimensions of the artwork



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Date the artwork was created and date of installation (if applicable)

Location of artwork (if installed)

Artist's Resume:

Resume of principal artist and, if applicable, key assistants or subcontractors, including qualifications and previous experience.

Past Performance:

Past Performance Verification will be included in this evaluation criteria (Appendix B1). Offeror will be awarded points for both submission and evaluation of the PPVF forms. See section 10 of the instructions for details.

Other Required Forms

- c) Executed Affidavit of Non-Collusion
- d) Executed Immigration Warranty
- e) Executed Certificate of Insurability Statement
- f) Terms & Conditions Exceptions Form
- g) License Requirements Form
- h) MBWE/Local Vendor Form
- i) Compliance with A.R.S. § 35-393.01 Form
- j) Signed W-9
- k) Additional Requirements (as applicable)

***Failure to provide all documents or follow the provided order in your SOQ may result in your submission being deemed non-responsive.**

The City of Surprise reserves the right to retain all SOQs submitted and to use any ideas in a SOQ regardless of whether that SOQ is selected. Submission of a SOQ indicates acceptance by the firm of the conditions contained in this Request for Qualifications, unless clearly and specifically noted in the SOQ submitted, and confirmed in the contract between the City of Surprise and the firm selected.

- 4. INQUIRIES:** Any question related to the Request for Qualifications must be submitted in writing through the ProcureNow Question/Answer Tab via the City's e-Procurement portal, on or before, Question & Answer Submission Date by Question & Answer Submission Time. Please include the section title for each question, if applicable, in order to ensure that questions asked are responded to correctly. All questions submitted and answers provided shall be electronically distributed to bidders following this solicitation on the City's e-Procurement Portal.
- 5. PROSPECTIVE OFFERORS CONFERENCE:** A prospective offerors conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this document. 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. The City will then determine if any action is necessary 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.



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- 6. LATE SOQs:** Late SOQs will not be considered.
- 7. WITHDRAWAL OF SOQ:** At any time prior to the specified SOQ due date and time, a prospective offeror (or designated representative) may withdraw the SOQ through the City's e-Procurement Portal under the guidelines of the Surprise Procurement Code. The responding firm may "unsubmit" their SOQ in ProcureNow and after withdrawing a previously submitted SOQ, the responding firm may submit another SOQ at any time up to the deadline for submitting SOQs prior to the solicitation due date and time.
- 8. AMENDMENT OF RFQu:** Any addenda shall be posted on the District's e-Procurement Portal and must be acknowledged by the proposer. Addenda notifications will be emailed to all persons on record as following this RFQu. Failure of any Offeror to receive any such addenda or interpretation shall not relieve such Offeror from any obligation under their SOQ as submitted. All addenda so issued shall become part of the contract documents.
- 9. VENDOR REGISTRATION:** The successful offeror shall be required to register as a vendor before contract award. This registration is done separately from the City's e-Procurement Portal.
- 10. PAST PERFORMANCE VERIFICATION:** City desires to receive feedback on past performance of your projects. Provide a copy of the Past Performance Verification form (PPVF) (Appendix B1) to Public/Private Agencies, for which you have substantially completed similar work for three (3) similar projects. Provide this form to the Owner, or Owner's representative, directly responsible for oversight of the project to complete and submit these forms with your SOQ submission through the City's e-Procurement Portal.
- Zero points will be awarded for projects with any of the following:
- If a project submitted is not substantially complete;
 - If the firm submitting was not the prime consultant/contractor; or
 - If the person responding was not directly responsible for project oversight.
- 11. RESPONSIVE BIDDER:** A "responsive bidder" means an Offeror determined by the Procurement Manager to have submitted a SOQ that conforms in all material respects to the requirements of the SOQ documents.
- 12. RESPONSIBLE OFFEROR:** A "responsible bidder" means an Offeror determined by the Procurement Manager to have all of the following qualities:
- a) The ability, capacity, experience and skill to provide the Goods and/or Services in accordance with RFQu specifications;
 - b) The ability to provide the goods and/or services promptly, or within the time specified, without delay or interference;
 - c) The equipment, facilities and resources of such capacity and location to enable the Offeror to provide the Goods and/or Services;
 - d) The ability to provide future maintenance, repair, parts and service for the use of the Goods and/or Services purchased, if applicable;
 - e) The quality and adaptability of the materials, supplies or services required or necessary to the particular use; and
 - f) The financial resources to perform the Contract.

13. SOQ EVALUATION:

Phase I: A Selection Committee will review the Statements of Qualifications. The criteria to be used to determine the artists who will be invited to participate in Phase II of the selection process are set forth in Section 14. Final selection will be based upon scores from the SOQ. Each artist will be ranked by the Selection Committee, then the rankings will



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be totaled. Award to proceed to phase II of the section process will be made to the artists with the highest ranked average. The City may wish to hold interviews as part of this phase, and it is at the sole discretion of the City that interviews will be held. If interviews are held as part of this phase, the Selection Committee will evaluate the Statements of Qualifications and develop a short list of artists. The criteria to be used to determine the artists on the final list are set forth in Section 14. The artists appearing on the short list may be invited to participate in an interview with the Selection Committee. Final selection of the artists to proceed to phase II of the selection process will be based upon ranked scores from the interviews alone. Each artist will then be ranked according to the selection panel ranked scores. In the event of a tie, total points from the interviews will be utilized as a tie-breaker. SOQ scores will be used is interview scores alone cannot break the tie.

Phase II: The Selection Committee will determine the number of artists to participate in this phase of the selection process. This phase will require submission of a conceptual artistic proposal. Requirements and evaluation criteria of the conceptual artistic proposal will be given to the artists invited to participate in this phase of the selection. The City may wish to hold interviews as part of this phase, and it is at the sole discretion of the City that interviews will be held. If interviews are held as part of this phase, the Selection Committee will evaluate the conceptual artistic proposals and develop a short list of finalists to be invited for an interview, or the City may choose to invite all artists for interviews. The criteria to be used to determine the short list, if needed, will be identified in the invitation to submit conceptual artistic proposals. The artists appearing on the short list may be invited to participate in an interview with the Selection Committee. Final selection will be based upon ranked scores from the interviews alone. Each artist will then be ranked according to the selection panel ranked scores. In the event of a tie, total points from the interviews will be utilized as a tie-breaker. SOQ scores will be used is interview scores alone cannot break the tie.

Key Personnel: The Firm shall ensure that Key Personnel identified in its SOQ shall be the Key Personnel assigned to the Project. Such Key Personnel shall not be replaced without prior written acceptance of City. Unauthorized replacements will result in disqualification of the proposal or breach of the Contract.

14. EVALUATION CRITERIA: The following evaluation factors are listed with a weighted percentage of importance for the first phase of the selection process. Topics should be addressed in the following order for ease of evaluator interpretation and evaluation. The committee will evaluate and rank the offers, based on the following criteria:

- | | |
|---|-----|
| a) Demonstration of Artistic Experience: | 25% |
| b) Demonstration of Artistic Excellence: | 25% |
| c) Ability to enhance Community Identity and Vitality: | 25% |
| d) Demonstration of Artistic Values & Artistic Processes: | 25% |

15. AWARD OF CONTRACT:

- a) Unless the prospective offeror states otherwise, or unless provided within this Request for Qualifications, 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.
- b) A response to a Request for Qualifications is an offer to contract with the City based upon the terms, conditions and specifications contained in the City's Request for Qualifications and the written amendments thereto, if any. Contract Negotiation: Upon completion of the final rankings, Surprise will enter into negotiations with the highest ranked firm for a pre-construction phase services contract for the Project. If a contract cannot be successfully negotiated with the highest ranked firm, then negotiations will be terminated



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with that firm and Surprise will enter into negotiations with the next highest ranked firm until an agreement is reached or an impasse is declared.

- c) Notwithstanding any other provision of this Request for Qualifications, the City expressly reserves the right to:
 - i. Waive any immaterial defect or informality;
 - ii. Reject any or all SOQs, or portions thereof; and/or
 - iii. Reissue a Request for Qualifications.

16. DISCUSSIONS: In accordance with the City of Surprise Procurement Code, after the initial receipt of SOQs, discussions may be conducted with Offerors who submit SOQs determined to be reasonably susceptible of being selected for award. City reserves the right to request additional information and/or clarifications from any or all Respondents to this RFQu.

17. PROTESTS: Firms wishing to protest a disqualification or a procurement outcome may file a protest pursuant to the Arizona Administrative Code, Sections R2-7-A901 through A911. Protests must be filed with the City of Surprise Procurement Office either within fourteen (14) days of the Notice of Intent to Award or ten (10) days after the procurement file is made available for public inspection, whichever is later.



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PROJECT OVERVIEW

The City of Surprise ("City") seeks a qualified Offeror to design its latest public art project on Bullard Avenue between Bell Road and Greenway Road.

1. PROJECT DESCRIPTION:

The City of Surprise is seeking qualified artists to design its latest public art project on Bullard Avenue between Bell Road and Greenway Road. The ideal artist should strive to create the City's first exterior statement piece, to be located in the future entertainment district in City Center. The selected artist will be asked to aid in place-making and breathing life into the entertainment district. Qualified artists will have the unique opportunity to create a work of art that not only serves as a welcoming entryway to the city, but also an anchor to attract future development.

The Bullard Avenue corridor is the heart of Surprise, and houses the Surprise Stadium – Spring Training home to the Kansas City Royals and Texas Rangers – as well as the Surprise Tennis & Racquet Complex, the Surprise Aquatic Center, and a 5-acre urban lake at Surprise Community Park. This area sees a high-volume of traffic from both seasonal and year-round residents who utilize the recreational amenities and city facilities.

The Offeror shall comply with Title 34 of the Arizona Revised Statutes, where applicable.

2. PROJECT MANAGER:

Danielle Osborne, HSCV & Jeff Martin, CIP

Bidders may not contact the project manager/contract administrator for any reason. All questions regarding this RFQ must be directed to the City of Surprise Procurement Division via the e-Procurement Portal.

3. PROJECT BUDGET:

The total project budget is \$300,000.00. This budget is inclusive of ALL project costs including (but not limited to) artist fees, fabrication, insurance, shipping, travel, installation, and documentation.

4. PROJECT FUNDING:

Surprise Municipal Art Bond Funds

5. OVERALL PROJECT SCHEDULE:

Final Design Review:	September 2021
Design Approval:	October 2021
Planned date of fabrication/installation:	April 2022
Planned date of completion:	December 2022



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SCOPE OF WORK/SERVICES

Project Scope:

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Project Expenses:

Eligible expenditures

- (1) Professional artist fees
- (2) Fees for assistants, professional and contracted services required for design, engineering, fabrication, and installation of the artwork
- (3) Space and equipment rental
- (4) Fabrication and materials costs
- (5) Packing/crating of the artwork
- (6) Shipping and transportation of the artwork to the site
- (7) Installation
- (8) Insurance, permits, taxes, business and legal expenses
- (9) City-required permits
- (10) Dealer, gallery, or consultant fees not to exceed 10% of the artist fee
- (11) Models, marquees, construction drawings prepared by the artist
- (12) Travel expenses of the artist for site visitation, research, and presentations
- (13) Preparation of the site to receive artwork beyond that which would normally be required
- (14) Structural improvements necessary for display of the artwork
- (15) Documentation of the artwork
- (16) Incidental Expenses

Ineligible expenditures

- (1) Directional, wayfinding or other functional elements, such as signing, super-graphics, maps, etc. not designed by an artist selected through SACAC approval process
- (2) Landscape architecture, landscape gardening, architectural elements and engineering except where these elements are designed by the artist to be integral parts of the artwork



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- (3) Architecture, landscape architecture and engineering fees and land costs on a project that incorporates public art
- (4) Site improvements not designed by the artist as integral to the artwork. Elements generally considered to be components of architectural or landscape architectural design (landscaping, pool, paths, benches, receptacles, fixtures, planters, etc.) which are designed by a design professional rather than by the artist are not eligible public art expenditures.
- (5) Ongoing operating expenses and maintenance of architectural and landscape elements not part of the artwork
- (6) Purchase of existing artworks outside the normal SACAC selection process, except as specified in this SPAPPG
- (7) Marketing materials, publications and media costs
- (8) Commercial expression including logos, mascots or commercial displays

Payment:

The Contract will include two separate phases: the design phase and the fabrication phase. In the design phase, the artist will be contracted to design the art project and will be paid 20% of the total project budget as a design fee. A detailed budget is required as part of the contract terms and must be reviewed and adjusted if necessary before the fabrication phase begins.

After review and approval of the design, the artist will enter the second phase of the Contract. Work performed during the design phase must be reviewed and approved by staff and the SACAC prior to moving ahead to the fabrication phase.

Milestones will be established for artist payments on the remaining 80% per the project schedule and outlined in the agreed upon contract terms. Prior to final payment, a final acceptance meeting will be held. The work will be inspected for full completion and correction of any defects or deficiencies. All requirements of the Contract are to be met prior to final payment.



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STANDARD TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE SOLICITATION AND ANY RESULTANT CONTRACT.

DEFINITION OF TERMS

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

City – is defined as the City of Surprise, Arizona.

Contract – is defined as the resulting agreement between the City and the Contractor pursuant to this RFQu including, but not limited to, the combination of the Solicitation, including the Special Terms and Conditions, the Standard Terms and Conditions, the Project Overview, and the Specifications and Statement or Scope of Work/Services; the Offer and any Best and Final Offers; and any Solicitation amendments or Contract Amendments.

Contract Amendment – is defined as a written document signed by the Procurement Manager that is issued for the purpose of making changes in the Contract.

Contractor – or **Vendor**, is defined as the Offeror who was awarded the Contract with the City.

Day(s) – are defined as calendar days unless otherwise specified.

Exhibit – is defined as any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

Gratuity – is defined as a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

Goods – are defined as articles moveable at the time of sale, including, but not limited to, equipment, supplies, consumable items, commodities, materials, products, parts, assets, or the like, received by the City in the execution of a Contract.

Offer – is defined as the bid, proposal, or qualifications submitted in response to this Solicitation that may be awarded the Contract, and is also referred to as a Statement of Qualifications (“SOQ”).

Offeror – is defined as the individual or legal entity that submitted the Offer to this Solicitation.

Procurement Manager – is defined as the person, or his or her designee, duly authorized by the City to enter into and administer Contracts and make written determinations with respect to the Contract.

Services – are defined as the work performed or the furnishing of labor, time or effort expended by a contractor or subcontractor, including, without limitation, all work, labor, time, effort, personnel, construction, equipment, products, supplies, parts, or other materials used in the performance of the Contract. The term “Services” does not involve: the delivery of a specific end product, other than required reports, performance, or deliverables; employment agreements; or collective bargaining agreements.

Solicitation – is defined as this Request for Qualifications (“RFQu”) by which the City invites potential contractors to participate in a procurement.



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Subcontract – is defined as any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1. **CERTIFICATION:** By signature in the Offer section of the Offer and Acceptance Award page, the Contractor certifies all of the following:
 - a) The submission of the Offer did not involve collusion or other anti-competitive practices.
 - b) The Contractor shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.
 - c) The Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted Offer. Failure to sign the Offer, or signing it with a false statement, shall void the submitted Offer or any resulting Contracts, and the Contractor may be debarred.
2. **CONTRACT:** The Contract between the City and the Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, and any amendments thereto, and (2) the Offer submitted by the Contractor in response to the Solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of the Contractor, and such written Contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Contractor's Offer. The Solicitation shall govern in all other matters not affected by the written Contract.
3. **CONTRACT AMENDMENTS:** This Contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.
4. **CONTRACT APPLICABILITY:** The Contractor shall substantially conform to the terms, conditions, specifications, and other requirements found within the text of this specific Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Contractor and the City, are not applicable to this Solicitation or any resultant Contract.
5. **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 Surprise. The City reserves the right to obtain like Goods and/or Services from another source when necessary. Off-Contract purchase authorization may only be approved by the City Procurement Manager. Approval shall be at the discretion of the City Procurement Manager and shall be conclusive, however, approval shall be granted only after a proper review and when deemed to be appropriate. Off-Contract procurement shall be consistent with the City Procurement Code.
6. **CONTRACT ORDER OF PRECEDENCE:** In the event of conflict in the provision of the Contract, as accepted by the City and as they may be amended, the following shall prevail in the order set forth below:
 - a) Special Terms and Conditions
 - b) Standard Terms and Conditions
 - c) Statement or Scope of Work
 - d) Specifications
 - e) Attachments
 - f) Exhibits



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- g) Documents referenced or included in the Solicitation
- h) Bid Submittal including any ancillary / service contract
- i) Purchase Order Terms and Conditions

7. CONFLICTING TERMS: In the event of a conflict between the Exhibits and Standard Terms and Conditions, the Standard Terms and Conditions of this Contract will govern. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation will govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of Contractor, and such written Contract will govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer.

8. TERMINATION; CANCELLATION:

- a) For City's Convenience: This Contract is for the convenience of the City and may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, Contractor will be paid for all undisputed Services performed up to the termination date.
- b) Conflict of Interest: This Contract is subject to the provisions of A.R.S. § 38-511. The City may cancel this Contract 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 Contract on behalf of the City or any of its departments or agencies is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the Contract subject.
- c) Fund Appropriation Contingency: Contractor understands that the continuation of this Contract is subject to the budget of the City providing for the Contract item as an expenditure. The City cannot assure that the budget item for funding this Contract will be approved in the future. In such event, the City may terminate this Contract.

9. DEFAULT: The City, by written notice of default to the Contractor, may terminate the whole or any part of this Contract in any one of the following circumstances:

- a) If the Contractor fails to make delivery of the Goods and/or to perform the Services within the time specified;
or
- b) If the Contractor fails to perform any of the other provisions of this Contract and fails to remedy the situation within a period of ten (10) days after receipt of notice.

In the event the City terminates this contract in whole or part, the City may procure Goods and/or Services similar to those terminated, and the Contractor shall be liable to the City for any excess costs for such similar Goods and/or Services.

10. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH: Contractor shall deliver conforming Goods in each installment of lot of this Contract and may not substitute nonconforming Goods. Delivery of nonconforming Goods or a default of any nature, at the option of the City, shall constitute a breach of the Contract as a whole.

11. GRATUITIES: The City may, by written notice to the Contractor, cancel this Contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event this Contract is cancelled by the City pursuant to this



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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. Paying the expense of normal business meals which are generally made available to all eligible city government customers shall not be prohibited by this paragraph.

- 12. APPLICABLE LAW; VENUE:** In the performance of this Contract, Contractor will abide by and conform to any and all laws of the United States, the State of Arizona, and the City of Surprise, including, but not limited to, existing and future federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act, and any other existing or future federal, state, and local laws, rules, regulations, orders, directives, statutes, and ordinances applicable to this Contract. Further, Contractor shall comply with Arizona Revised Statutes, Title 34, where applicable. This Contract is governed by the laws of the State of Arizona and suit pertaining to this Contract may be brought only in courts in the State of Arizona in Maricopa County.
- 13. LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Surprise Procurement Code.
- 14. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract will be read and enforced as though it were included and, if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract will promptly be physically amended to make such insertion or correction.
- 15. SEVERABILITY:** The provisions of this Contract and any portions thereof are severable. To the extent that any provision or any portion thereof is held to be invalid by a court of competent jurisdiction, such holding will not affect the remaining portion of any provision or any other provision of the Contract which may remain in effect without the invalid provision or portion thereof.
- 16. RELATIONSHIP TO PARTIES; INDEPENDENT CONTRACTOR:** 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 may not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Contract. Contractor, 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 Contractor, its employees, or subcontractors. Contractor, and not the City, will determine the time of its performance of the Services so long as Contractor meets the requirements of this Contract. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
- 17. ENTIRE AGREEMENT; INTERPRETATION-PAROL EVIDENCE:** This Contract represents the entire agreement of the parties with respect to its subject matter. All previous agreements, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by this Contract. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth in this Contract. This Contract will be construed and interpreted according to its plain meaning, and no presumption will be deemed to apply in favor of or against the party drafting the Contract. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in drafting, reviewing, and entering into this Contract.
- 18. ASSIGNMENT; SUBCONTRACTOR:** No right or interest in this Contract may be assigned by Contractor without prior written permission of the City, signed by the City Manager or their designee. No delegation of any duty of the Contractor may be made without prior written permission of the City, signed by the City Manager or their designee. Any attempted assignment or delegation by the Contractor in violation of this provision is a breach of this Contract



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by the Contractor.

- 19. SUBCONTRACTS:** No Subcontract may be entered into by Contractor with any other party to furnish any of the Goods and/or Services specified herein without the prior written approval of the City. Contractor is responsible for performance under this Contract whether or not subcontractors are used.
- 20. RIGHTS AND REMEDIES:** No provision in this Contract may be construed, expressly or by implication, as waiver by the City of any existing or future right or remedy available by law in the event of any claim of default or breach of this Contract. The failure of the City to insist upon the strict performance of any term or condition of this Contract or to exercise or delay the exercise of any right or remedy provided in this Contract, or by law, or the City's acceptance of and payment for Services, will not release Contractor from any responsibilities or obligations imposed by this Contract or by law, and will not be deemed a waiver of any right of the City to insist upon the strict performance of this Contract.
- 21. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the City and its council members, managers, officers, boards, commissions, officials, employees, or agents (collectively "Indemnified Party"), for, from, and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees, claims processing, investigation, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), including negligence, insofar as such Claims (or actions with respect thereof) relate to, arise out of, or are caused by, or in connection with the City entering into this Contract, or the acts or omissions of any Indemnified Party acting pursuant to or in furtherance of this Contract. Contractor shall further indemnify, defend and hold harmless any Indemnified Party for, from and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees, claims processing, investigation, 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 with respect thereof) relate to, arise out of, or are caused by, or in connection with: (a) the negligent or willful acts or omissions of work or professional services of Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Contract; and/or (b) any infringement, misuse, or misappropriation of an intellectual property right (copyright, trademark, trade dress, patent, trade secret, or otherwise), whatsoever, of any third-party. In consideration of the award of this Contract, Contractor agrees to waive all rights of subrogation against the City, its officers, officials, agents, and employees for losses arising from the work performed by Contractor for the City. The amount and type of insurance coverage required by this Contract will in no way be construed as limiting the scope of the indemnity in this section.
- 22. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in 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 Goods and/or Services used to fulfill the Contract.
- 23. FORCE MAJEURE:** Except for payment for sums due, neither party will be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes: acts of God; acts of the public enemy; war; acts of terror; hate crimes affecting public order; riots; strikes; mobilization; labor disputes; civil disorders; plague; pandemics (including without limitation, the COVID-19 pandemic); epidemics; quarantine orders or directives by a governmental entity; outbreaks of infectious disease or any other public health crisis, including without limitation, quarantine or other employee restrictions; fire; floods; lockouts, injunctions-



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interventions-acts, or failures or refusals to act by government authority; events or obstacles resulting from a governmental authority's response to the foregoing; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure notifies the other party of the existence of the force majeure and will be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract. Force majeure will not include the following occurrences:

- a) Late delivery of equipment, materials, or other Goods or Services caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; or
- b) Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this section.

24. RIGHT TO ASSURANCE: Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, they 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 an anticipatory repudiation of the Contract.

25. RIGHT TO AUDIT RECORDS: The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City.

26. RIGHT TO INSPECT PLANT: The City may, at reasonable times, inspect the part of the plant or place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.

27. WARRANTIES: Contractor warrants that all Goods and/or Services, including, without limitation, construction, delivered under this Contract shall conform to the specifications of this Contract. Unless otherwise stated in Contractor's response, the City is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this Contract. Mere receipt of shipment of the Goods/Services 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 the Solicitation. Contractor warrants that the Services rendered will conform to the requirements of this Contract and to the highest professional standards in the field.

28. INSPECTION; ACCEPTANCE: All Services (including, without limitation, all work and construction) will be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. All Goods and/or Services are subject to final inspection and acceptance by the City. Goods and/or Services failing to conform to the specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. The City may elect by a written determination to do any or all of the following:

- a) Waive the non-conformance;
- b) Stop the work immediately; and/or
- c) Bring Goods and/or Services into compliance.

29. TITLE AND RISK OF LOSS: The title and risk of loss of Goods and/or Services shall not pass to the City until the City actually receives the Goods and/or Service at the point of delivery, unless otherwise provided within this Contract.

30. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender of Goods shall fully comply with all provisions of the



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Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

- 31. SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship Goods under reservation and no tender of a bill of lading will operate as a tender of the Goods.
- 32. LIENS:** All Goods and/or Services must be free of all liens and, if the City requests, a formal release of all liens must be delivered to the City.
- 33. PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports, and other deliverables, which may be patented, copyrighted, or otherwise protected by another intellectual property right and created under this Contract are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City. All documents prepared and submitted to the City by Contractor pursuant to this Contract will be the property of the City, including without limitation, all intellectual property rights to such documents prepared and submitted to the City.
- 34. PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL:** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.
- 35. COST OF BID/PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing presenting or providing any response to the first phase of this Solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The City will pay a five hundred dollar (\$500.00) stipend and reimburse any travel costs per the City of Surprise Travel Policy (which is incorporated by reference) for Offerors who are selected to participate in the second phase of the evaluation.
- 36. PUBLIC RECORDS:** Notwithstanding any provisions of this Contract regarding confidentiality, secrets, or protected rights, Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, Contractor understands that disclosure of some or all of the items subject to this Contract may be required by law. In the event the City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide Contractor with notice of that request. Within ten (10) days of such notice, Contractor must inform the City in writing of any objection by Contractor to the disclosure of the requested information. Failure by Contractor to object timely will waive Contractor's ability to object under this section and will waive any remedy against the City for disclosure. In the event Contractor objects to disclosure within the time specified, Contractor agrees to handle all aspects related to the request including properly communicating with the requestor and timely responding with information. Furthermore, Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments assessed against the City. This provision will survive the termination of this Contract.
- 37. CONFIDENTIALITY OF RECORDS:** Contractor must 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 Contract will not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Contract. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual



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persons will not be divulged other than to employees, agents, or officers of the Contractor as needed for the performance of duties under this Contract.

38. CONFIDENTIAL INFORMATION:

- a) If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld, a statement advising the Procurement Manager of this fact shall accompany the submission and the information shall be identified.
- b) The information identified by the person as confidential shall not be disclosed until the Procurement Manager makes a written determination.
- c) The Procurement Manager shall review the statement and information and shall determine in writing whether the information shall be withheld.
- d) If the Procurement Manager determines to disclose the information, the Procurement Manager shall inform the bidder in writing of such determination.

39. ADVERTISING: Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the City.

40. DELIVERY ORDERS: The City shall issue a purchase order for the Goods and/or Services covered by this Contract. All such documents shall reference the Contract number as indicated on the Offer and Contract Award.

41. FUNDING: Contractor understands that the continuation of this Contract after the close of any given fiscal year of the City of Surprise, which ends on June 30 each year, shall be subject to the budget of the City providing for the Contract item as an expenditure. The City cannot assure that the budget item for funding this Contract will be approved in the future, as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Contract not be approved by City Council, the City may terminate this Contract as of the close of its fiscal year. The City represents that it intends to pay all monies due, if such funds have been legally appropriated.

42. BILLING: All billing notices to the City shall identify the specific Goods and/or Services being billed and the purchase order number. Goods are to be identified by the name, model number, and/or serial number most applicable. Any purchase/delivery order issued by the requesting agency shall refer to the contract number resulting from this Solicitation. Contractor shall submit invoices to the City of Surprise Accounts Payable Department, 16000 N Civic Center Plaza, Surprise, AZ 85374. Invoices may also be submitted electronically to accountspayable@Surpriseaz.gov

43. PAYMENT: The City will pay Contractor subject to Contractor submitting an invoice to the City for each requested payment. Invoices will itemize all Goods provided and/or Services completed up to the date of the invoice and provide sufficient detail about the Services completed to support the payment requested. Upon approval of the invoice, the City will pay the invoiced amount to Contractor.

44. COMPLIANCE WITH FEDERAL IMMIGRATION LAWS AND REGULATIONS: Contractor warrants that it complies with all federal immigration laws and regulations that relate to its employees and that it complies with A.R.S. § 23-214(A). Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract, and that the City retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

45. COMPLIANCE WITH A.R.S. § 35-393.01: Contractor hereby certifies that it does not, and will not, participate in



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during the term of this Contract, a boycott of Israel in accordance with A.R.S. §35-393.01. Contractor hereby agrees to indemnify and hold harmless the City, its agents and employees from any claims or causes of action relating to the City's action based upon reliance upon this representation, including the payment of all costs and attorney fees incurred by the City in defending such an action.

- 46. LAWS AND REGULATIONS:** Contractor must at all times during the performance of its duties under this Contract ensure that it and any person for whom Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes, or laws affecting the Services, including, without limitation, all existing and future: (i) City and County ordinances and regulations, (ii) State and federal laws, and (iii) Occupational Safety and Health Administration standards.
- 47. CONTRACTOR PERSONNEL:** Contractor will provide adequate, experienced personnel capable of and devoted to the successful completion of the Services within the term of this Contract.
- 48. LICENSES; MATERIALS:** Contractor must maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Contractor. The City has no obligation to provide Contractor, its employees, or subcontractors any business registrations or licenses required to perform the specific Services set forth in this Contract. The City has no obligation to provide tools, equipment, or material to Contractor.
- 49. CITY OF SURPRISE BUSINESS LICENSE:** The Surprise Municipal Code requires that all persons conducting business in the City of Surprise must first obtain a license. This includes businesses within the Surprise city limits, or those outside the limits who conduct business or perform services within Surprise.
- 50. ATTORNEYS' FEES:** In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract or on account of any breach or default hereof, the prevailing party is entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will accrue on the commencement of such action and will be enforced whether or not such action is prosecuted through judgment.



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SPECIAL TERMS AND CONDITIONS

1. **PURPOSE:** Pursuant to provisions of the City Procurement Code, the City of Surprise, Procurement Division intends to establish a contract for the design, fabrication, and installation of the art associated with the Bond Roadway Improvements Public Art.
2. **AUTHORITY:** This Solicitation as well as any resultant Contract is issued under the authority of the City Procurement Manager. No alteration of any resultant Contract may be made without the express written approval of the City Procurement Manager in the form of an official Contract Amendment. Any attempt to alter any Contract without such approval is a violation of the Contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, Contract cancellation, suspension, and/or debarment of the Contractor.
3. **OFFER ACCEPTANCE 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 one hundred twenty (120) days after the opening time and date.
4. **TERM OF CONTRACT:** The term of any resultant Contract shall commence on the date of award and shall continue for a period of one (1) year thereafter, unless terminated, cancelled, or extended as otherwise provided herein.
5. **CONTRACT EXTENSION:** By mutual written Contract Amendment, any resultant Contract may be extended for supplemental periods of up to a maximum of twenty-four (24) months.
6. **CONTRACT TYPE:** Firm Fixed Price
7. **MULTIPLE AWARD:** In order to assure that any ensuing Contracts will allow the City to fulfill current and future requirements, the City reserves the right to award Contracts to multiple companies. The actual utilization of any Contract will be at the sole discretion of the City. The fact that the City may make multiple awards should be taken into consideration by each potential Offeror.
8. **ESTIMATED QUANTITIES:** This Solicitation references quantities as a general indication of the needs of the City. The City anticipates considerable activity resulting from Contracts that will be awarded as a result of this Solicitation; however, the quantities shown are estimates only and the City reserves the right to increase or decrease any quantities actually acquired.
 No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential Offeror.
9. **PRICE ADJUSTMENT:** RESERVED
10. **PRICE REDUCTION:** A price reduction adjustment may be offered at any time during the term of a Contract and shall become effective upon notice.
11. **ELIGIBLE AGENCIES:** Any Contract resulting from this Solicitation shall be for the use of all City of Surprise departments, agencies, boards, and commissions.
12. **COOPERATIVE PURCHASING:** RESERVED
13. **AFFIRMATIVE ACTION REPORT:** It is the policy of the City of Surprise that suppliers of Goods and/or Services to the City adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, and promote regardless of race, color, religion, gender, national origin, age, or disability.
14. **INSURANCE REQUIREMENTS:**



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Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor must purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona with an A.M. 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 Contract at the City's option.

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

Insurance Requirements. Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

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

Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below. THE CITY RESERVES THE RIGHT TO REQUIRE ADDITIONAL INSURANCE COVERAGES AND/OR LIMITS BASED ON THE NEEDS OF THE CITY AND IN CONSIDERATION OF THE LEVEL OF RISK ASSOCIATED WITH THE PARTICULAR ACTIVITIES OR SERVICES TO BE RENDERED, AS DETERMINED BY THE CITY IN ITS SOLE DISCRETION.

i. Commercial General Liability – Occurrence Form

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

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability – Written and Oral	\$1,000,000
Fire Legal Liability	\$ 50,000
Each Occurrence	\$1,000,000

The policy shall be endorsed to include the following additional insured language: *"The City of Surprise, its departments, agencies, boards, commissions, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor"*.

Policy shall contain a waiver of subrogation against the City of Surprise, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.



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ii. Business Automobile Liability

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

Combined Single Limit (CSL) \$1,000,000

The policy shall be endorsed to include the following additional insured language: *"The City of Surprise, its departments, agencies, boards, commissions, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor"*.

Policy shall contain a waiver of subrogation against the City, as departments, agencies, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

iii. Worker's Compensation and Employers' Liability

The policy must include Workers' Compensation Statutory Employers' Liability Coverage

Each Accident \$ 500,000

Disease – Each Employee \$ 500,000

Disease – Policy Limit \$1,000,000

Policy shall contain a waiver of subrogation against the City of Surprise, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

iv. Professional Liability (Errors and Omissions Liability)

Policy must include professional liability coverage.

Each Claim \$1,000,000

Annual Aggregate \$2,000,000

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

The policy must cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work/Services of this Contract.

Additional Insurance Requirements: The policies shall include, and be endorsed to include, the following provisions:

- a) **Additional Insured:** The City of Surprise, its departments, divisions, agencies, boards, commissions, officers, officials, agents, and employees shall be listed as an additional insured where such status is required. 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.



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- b) **Contractor's Coverage is Primary:** The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- c) **Notice of Cancellation:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given from the Contractor to the City. Such notice shall be sent directly to the City Risk Management and Procurement Divisions.
- d) **Acceptability of Insurers:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- e) **Verification of Coverage:** Contractor shall furnish the City with a declarations page and all endorsements of the liability insurance policy, as well as any amendments or riders in order to verify contractual insurance requirements are being satisfied. At a minimum, Contractor shall provide the following endorsements: (i) Additional Insured endorsement; (ii) Primary and Non-Contributory endorsement; and (iii) Waiver of Subrogation endorsement.

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

All certificates and endorsements required by this Contract shall be sent directly to the City Risk Management and Procurement Divisions. The City project/Contract number, if applicable, and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

Subcontractors: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above. Contractor shall ensure for any subcontractor policy required under this Contract and for any policy required by a contract between Contractor and each subcontractor, the subcontractors' certificates of insurance shall list the "City of Surprise" as the Certificate Holder and as an additional insured (and any other entities that are required to be listed as such), and shall identify in each certificate of insurance's description: (i) this Contract by Contract Number/Solicitation Number, and (ii) any subcontract between the subcontractor and Contractor related to that subcontractor's work under this Contract.

Approval: Any modification or variation from the *insurance requirements* in this Contract shall be made by the City, whose decision shall be final. Such action will not require a formal Contract Amendment, but may be made by administrative action.

Increase of Required Insurance: By written notice to the Contractor, the City may elect to increase the limits or add additional types of coverage to account for inflation, changes in risk, or any other factor that the City reasonably determines to affect the amount of insurance to be provided by the Contractor.

15. BID BOND: RESERVED



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16. PERFORMANCE BOND: RESERVED

17. PAYMENT BOND: RESERVED

18. LIEN WAIVER RELEASE: A Conditional Lien Waiver and Release (referred to as “Waiver” under this section) may be requested prior to any payment made by City and is required prior to any final payment. The Waiver shall provide full, final, and unconditional certification and affidavit that all of the Contractor’s obligations to contractors, subcontractors, suppliers, and other third parties for payment for labor, materials, or equipment related to the Scope of Work/Services have been paid or otherwise satisfied. The City also reserves the right to require full, final, and unconditional waivers and release of mechanics or construction liens, releases of trust fund or similar claims, and release of security interests or encumbrances on the Project property from each Contractor, subcontractor, supplier, or other person or entity who has, or might have, a claim against the City or the City’s property.

19. LIQUIDATED DAMAGES: If liquidated damages are assessed, such damages shall be calculated at the rate specified in the Maricopa Association of Governments (“MAG”) Section 108.9 per calendar day.

- a. If the Contract is not terminated, the Contractor shall continue performance and be liable to the City for the liquidated damages until the Goods are delivered and/or Services performed.
- b. In the event the City exercises its right of termination, the Contractor shall be liable to the City for any excess costs, and in addition, for liquidated damages until such time the City may reasonably obtain delivery or performance of similar Goods and/or Services.

20. KEY PERSONNEL: It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. The Contractor must agree to assign specific individuals to the key positions.

- a. The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the City.
- b. If key personnel are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

21. MANUFACTURER’S REPRESENTATIVE: RESERVED

22. MAINTENANCE: RESERVED

23. ORDERING PROCESS: Upon award of a Contract by the City of Surprise, the City Procurement Division may procure the specific Goods and/or Services awarded by the issuance of a purchase order to the appropriate Contractor. The award of a Contract shall be in accordance with the City of Surprise Procurement Code and all transactions and procedures required by the Code for public bidding have been complied with. A purchase order for the awarded Goods and/or Services that cites a valid current Contract is the only document required for the City to order and the Contractor to deliver the Goods and/or Services.

Any attempt to represent any Goods and/or Services not specifically awarded as being under Contract with the City is a violation of the Contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, Contract cancellation, suspension, and/or debarment of the Contractor.



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- 24. CURRENT PRODUCTS:** All products and/or other Goods offered in response to this Solicitation shall be new and in current and ongoing production, have been formally announced for general marketing purposes, be a model or type currently functioning in a user (paying customer) environment, and capable of meeting or exceeding all specifications and requirements set forth in this Solicitation.
- 25. PRODUCT DISCONTINUANCE:** The City may award contracts for particular products and/or models of equipment and/or other Goods as a result of this Solicitation. In the event that a product or model is discontinued by the manufacturer, the City at its sole discretion may allow the Contractor to provide a substitute for the discontinued item. The Contractor shall request permission to substitute a new product or model and provide all of the following:
- a. A formal announcement from the manufacturer that the product or model has been discontinued.
 - b. Documentation from the manufacturer that names the replacement product or model.
 - c. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original Solicitation.
 - d. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.
 - e. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.
- 26. INVENTORY:** The City of Surprise has an ongoing requirement for the material and/or other Goods indicated in this Solicitation. It is an express condition of any award that a Contractor shall maintain a reasonable stock on hand for delivery to the requesting agency. Failure to maintain such a stock may result in Contract cancellation.
- 27. SERIAL NUMBERS:** Offers shall be for equipment and/or other Goods on which the original manufacturer's serial number has not been altered in any way. Throughout the Contract term, the City reserves the right to reject any altered equipment and/or other Goods.
- 28. DEMONSTRATION MODELS:** All vendors are hereby notified that demonstration units of the equipment and/or other Goods offered shall be available in Phoenix. The City Procurement Division must arrange a time and place for equipment demonstrations for the purpose of evaluation. Demonstrations shall be performed at no expense to the City.
- 29. BRAND NAMES:** Any manufacturer's names, trade names, brand names, or catalog numbers used in the specifications are for the purpose of describing and establishing the quality level, design, and performance desired. Such references are not intended to limit or restrict bidding by other offerors but are intended to establish the quality, design, or performance which is desired. Any Offer which proposes like quality, design, or performance will be considered.
- 30. SAFETY STANDARDS:** All Goods supplied on and/or Services rendered under this Contract will comply with the current applicable federal and State Occupational Safety and Health Standards, the National Electric Code, and the National Fire Protection Association Standards. Contractor will be responsible for ensuring that the above-referenced safety standards are met and acknowledges that Contractor has general supervisory authority over the worksite, including the power to correct safety and health violations. This would include the power to require subcontractors to correct violations of the above-referenced safety standards. Contractor is responsible for how frequently and closely Contractor needs to inspect to meet the standard of reasonable care for the above-referenced safety standards.



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- 31. DESCRIPTIVE LITERATURE:** All Offerors shall include complete manufacturers' descriptive literature regarding the equipment and/or other Goods they propose to furnish. Literature shall be sufficient in detail in order to allow full and fair evaluation of the Offer submitted. Failure to include this information may result in the Offer being rejected.
- 32. USAGE REPORT:** RESERVED
- 33. SHIPPING TERMS:** Prices shall be F.O.B. Destination Pre-Paid and Allowed to the delivery location designated herein. Contractor shall retain title and control of all Goods until they are delivered and the contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will notify the Contractor promptly of any damaged Goods and shall assist the Contractor in arranging for inspection.
- 34. DELIVERY:** RESERVED
- 35. TAXES:** Prices offered shall not include applicable State and local taxes. The City will pay all applicable taxes. Taxes must be listed as a separate item on all invoices. The City of Surprise is exempt from Federal Excise Tax, including the Federal Transportation Tax.
- 36. PAYMENT:** Payment terms are Net 30 from receipt of a correct invoice as deemed by the City. The City will make every effort to process payment for the purchase of Goods and/or Services within thirty (30) calendar days after receipt of said Goods and/or Services and a correct notice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Invoices will itemize all Goods and/or Services completed up to the date of the invoice and provide sufficient detail about the Services completed to support the payment requested.
- 37. WARRANTY:** Each Offer shall include a complete and exclusive statement of the product warranty.
- 38. TRAINING:** RESERVED
- 39. SAMPLES:** Samples of items, when requested, must be submitted within seventy-two (72) hours. Unless otherwise specified by the City Procurement Division, samples will be furnished, at no expense to the City. They must be identified as to supplier, manufacturer, part number, model number, type, grade, applicable stock number, etc. If not destroyed by testing, samples will be returned at Offeror's request and expense. If no instructions are received for their return, samples will be discarded thirty (30) calendar days after the Contract award date.
- 40. IDENTITY THEFT PREVENTION:** The Contractor shall establish and maintain Identity Theft policies, procedures and controls for the purpose of assuring that "personal identifying information," as defined by A.R.S. § 13-2001(10), as amended, contained in its records or obtained from the City or from others in carrying out its responsibilities under the Contract, is protected at all times and shall not be used by or disclosed to unauthorized persons. Persons requesting such information should be referred to the City. Contractor also agrees that any "personal identifying information" shall not be disclosed other than to employees or officers of Contractor as needed for the performance of its duties under the Contract. Contractor agrees to maintain reasonable policies and procedures designed to detect, prevent and mitigate the risk of identity theft. Contractor is required under this contract to review the City of Surprise's Identity Theft Program and to report to the Program Administrator any Red Flags as defined within that program. At a minimum, the Contractor shall have all of the following Identity Theft procedures in place:
- a. Solicit and retain only the "personal identifying information" minimally necessary for business purposes related to performance of the Contract.



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- b. Ensure that any website used in the performance of the Contract is secure. If a website that is not secure is to be used, the City shall be notified in advance before any information is posted. The City reserves the right to restrict the use of any non-secure websites under this Contract.
- c. Ensure complete and secure destruction of any and all paper documents and computer files at the end of the contract's retention requirements.
- d. Ensure that office computers are password protected and that computer screens lock after a set period of time.
- e. Ensure that offices and workspaces containing customer information are secure.
- f. Ensure that computer virus protection is up to date.

41. CONFIDENTIALITY AND OWNERSHIP OF RECORDS, INFORMATION AND DATA: Contractor must establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records, on its servers or any cloud-based storage solution, or obtained from the City or from others in carrying out its obligations under this Contract will not be used or disclosed by Contractor, its agents, officers, or employees, except as required to perform Contractor's duties under this Contract. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons will not be divulged other than to employees, agents, or officers of the Contractor as needed for the performance of duties under this Contract. Contractor understands and agrees that any and all customer information, meter reads, consumption history, and/or other data or information obtained by Contractor in the performance of this Contract are the sole and exclusive property of the City of Surprise. The City of Surprise exclusively owns and controls said customer information, meter reads, consumption history, and/or other data or information, regardless of where or how Contractor elects to collect or store said data or information.

42. INTELLECTUAL PROPERTY RIGHTS: The Artwork (referred to as the "Artwork" in this Section) and all related documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Contract shall be the property of the City. In addition to any other intellectual property terms found in this Contract, the following terms and conditions apply under this Contract:

- a. *Risk of Loss; Delivery and Installation.*
 - i. Contractor shall assume all risk of loss or damage to the Artwork prior to installation and completion. Contractor shall take such measures as are reasonably necessary to protect the Artwork from loss or damage. Contractor agrees to deliver and construct the Artwork free and clear of any liens and claims arising from any source.
 - ii. Contractor shall deliver the Artwork in good condition and shall control installation. In the event of physical loss or damage to the Artwork prior to installation or completion, Contractor shall rectify the loss or damage by repair, restoration, replacement, or other appropriate means as soon as possible at no additional cost to the City.
 - iii. Contractor shall supply all equipment, tools, labor, materials, and supplies to accomplish the designated tasks and services.
 - iv. Contractor shall be required to inspect the site prior to the transportation and/or installation of the Artwork and shall notify the City of any adverse conditions that will impact the installation of the Artwork.



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- and which need correction. Failure to do so by Contractor shall be deemed as an acceptance of the conditions.
- v. Contractor is responsible for timely installation of the Artwork. Contractor may not install the Artwork until authorized to do so by the City.
- b. *Title to Work; Deaccession; Relocation.*
- i. Title to the Artwork and all work created by Contractor under this Contract will become property of the City upon Contractor's receipt of the final payment under this Contract. City shall have the right to display the Artwork and to loan the Artwork to others for the purpose of public display. The City shall have the right to reproduce the Artwork as provided in this Contract.
- ii. Contractor agrees and acknowledges that should the deaccessioning of the Artwork become necessary at any point, the City may proceed with deaccessioning in its sole discretion. At any time, the City shall have the right to move, relocate, change, or remove Artwork from the intended location and to store or dispose of Artwork as the City deems appropriate.
- c. *Warranties.* Contractor warrants and represents all of the following:
- i. The Artwork is and will be the original product of Contractor's own creative efforts, is unique, and does not infringe on any third party's copyrights or other intellectual property rights or the rights of any person. The Artwork (or duplicate thereof) has not been accepted for sale elsewhere.
- ii. Contractor has not sold, assigned, transferred, licensed, granted, encumbered, or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Contract.
- iii. The Artwork is free and clear of any liens from any source whatsoever.
- iv. Contractor has the full power to enter into and perform this Contract and to make the grant of rights contained in this Contract.
- v. These representations and warranties shall survive the termination or other extinction of this Contract.
- d. *Ownership and Reproduction Rights of the Artwork.*
- i. Contractor agrees that the City owns the original Artwork created under this Contract, including all intellectual property rights. Contractor warrants that the design being commissioned and produced under this Contract is the original product of its own creative efforts, the work is unique, it is a singular edition, it has not been accepted for sale elsewhere, and that the design shall not be offered for sale elsewhere without the express approval of the City.
- ii. Contractor shall ensure that the design for the Artwork contains no material from other artworks or other copyrighted material without the prior written permission of the owner of such material where such other work is copyrighted or where such permission is otherwise required.
- iii. The Artwork's designs, sketches, models, and any other completed artwork created and submitted by Contractor to the City under the terms of this Contract shall be the property of the City.



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- iv. Contractor agrees that the City, at the City's expense, may cause to be registered a copyright of the Artwork in the City's name after the Artwork has been accepted by the City and final payment has been made to Contractor. Contractor further agrees that upon final acceptance and payment, the City will have a perpetual, exclusive, and royalty-free right and license to use and display the Artwork and any and all work products produced under or as a result of this Contract, and any reproductions of such work products, and to loan such work products to other institutions with authority to display it publicly, including use on the internet and other electronic formats.
 - v. Contractor also agrees that upon final acceptance and final payment, the City shall have the irrevocable right to display the Artwork and to display two-dimensional reproductions of the completed Artwork. The City shall have the right to make, and to authorize the making of, photographs and other two-dimensional reproductions of the Artwork for all commercial and noncommercial purposes in its absolute discretion.
 - vi. The City agrees all references to the Artwork shall credit Contractor in an appropriate manner. A plaque identifying the Contractor, the title of the Artwork, and the year of completion shall be publicly displayed on or adjacent to the Artwork. The City shall maintain such identification in good repair and shall replace it if it is stolen or damaged beyond repair.
 - vii. The City has the right to remove the Artwork from the installation site, or any subsequently relocated site, at any time. In addition, in the event that any element of the Artwork constitutes a public safety hazard, the City has the right to remove the element posing the public safety hazard. The City shall have the right to donate, sell, or dispose of the Artwork at any time.
 - viii. Without limiting any right of the City, the City may, by written notice to Contractor at Contractor's last known address, attempt to provide Contractor the opportunity to purchase the Artwork for the greater of the total price or the amount of any offer which the City has received for the purchase of the Artwork, plus all costs associated with the removal of the Artwork from the installation site or any subsequently relocated site, clean-up of the installation site or any subsequently relocated site, and delivery to Contractor. Contractor shall not be entitled to any compensation in the event Contractor does not receive such notice.
 - ix. Without limiting any right of the City, Contractor may create two-dimensional and one-dimensional image(s) of the Artwork for inclusion in a portfolio, catalog, printed material, or other tangible or electronic storage location or device for use by Contractor for promotional purposes. Contractor may not create any other reproduction of the Artwork without first securing the written consent of the City.
 - x. To the extent Contractor retains any moral rights under applicable law, including, without limitation, the Copyright Act of 1976 or the Visual Artists Rights Act (VARA), as revised, Contractor hereby waives such moral rights and consents to any action consistent with the terms of this Contract with respect to such moral rights, in each case, to the full extent of such applicable law. Contractor shall confirm any such waivers and consents from time to time as requested by the City.
 - xi. The provisions of this Section shall survive expiration or termination of this Contract.
- e. *Contractor's Warranties of Quality and Condition.*
- i. Contractor warrants to the City that the fabrication and installation of the Artwork will be performed in a workmanlike manner and that the Artwork will be free of defects in workmanship, fabrication, materials,



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or installation, and that Contractor will, at Contractor's own expense, remedy any defects found in the Artwork due to faulty workmanship, fabrication, materials, or installation for a period of two (2) years after the final acceptance of the Artwork by the City. Contractor shall repair or replace in the City's sole discretion and at no additional cost to the City any portion of the Artwork that is found to be defective during the warranty period.

- ii. Contractor warrants to the City that the Artwork will not require maintenance substantially in excess of that described in the maintenance recommendations to be provided by Contractor to the City set forth herein.
- iii. With the exception of damage due to vandalism or accident by any person other than Contractor or persons under Contractor's employ, direction, or supervision, Contractor warrants that the Artwork will not contain any defect in design or construction including any defect which may be a hazard or a danger to the health and safety of the public and further agrees to cooperate in making or permitting adjustments to the work, if necessary, to eliminate hazards or potential hazards which become apparent after the Artwork is accepted by the City.
- iv. Contractor represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.
- v. Contractor agrees that no work or Services funded by this Contract shall inhibit, promote, or convey a religion, a political party or position, or a religious or political message or advocacy.
- vi. These representations and warranties shall survive the termination or other extinction of this Contract.
- vii. As a condition of and prior to final acceptance of the Artwork by the City, Contractor will supply the City with maintenance instructions for the Artwork.
- viii. The City is responsible for the proper care and maintenance of the Artwork, unless specifically called for in the Services. During the lifetime of the Artwork, Contractor will supply at no cost to Contractor, and at no charge to the City, advice as to problems arising in relation to maintenance of the Artwork.
- ix. The City shall make every reasonable effort to consult with Contractor concerning repairs to the Artwork. To the extent practical, Contractor shall be given the opportunity to accomplish repairs at a reasonable fee. The City reserves the right to obtain competitive bids and to choose the highest quality and least expensive vendor for all repairs and restoration. In the event that the City makes repairs or restoration not approved by Contractor, Contractor shall have the right, at Contractor's sole option, to have Contractor's association with the Artwork severed.



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PAST PERFORMANCE VERIFICATION

APPENDIX B1

Past Performance Verification Form (PPVF)

Directions: Request Public/Private Agencies, for which you have substantially completed similar work/services, to fill out a copy of the PPVF for three (3) similar projects/services and return to you and submit with your submittal package through the City's e-Procurement Portal. Provide this form to the Owner or Owner's representative directly responsible for oversight of the project to complete. If your firm has completed previous similar work for the City of Surprise, it is recommended that you utilize this experience. If your firm has not completed prior projects with Surprise you will not be penalized.

RFQu Due Date and Time: **June 24, 2021 at 11:00 A.M. Local Time**

SOLICITATION: **321236 / CALL FOR ARTISTS; BOND ROADWAY IMPROVEMENTS PUBLIC ART**

NAME OF COMPANY TO BE EVALUATED: _____

NAME OF AGENCY OR FIRM SUBMITTING EVALUATION: _____

NAME/PHONE NUMBER OF PERSON SUBMITTING EVALUATION: _____

QUESTIONS:

Has the above referenced company provided art design, fabrication, and installation services for your firm/organization?

(Select one) Yes No

What type of projects and services did this firm provide?

On a scale of 1 to 10 (1 being lowest, 10 highest), rate this company's performance on the following:

- a. How would you rate the customer service provided by this company? _____
- b. Were the deliveries on time and correct? _____
- c. Was the company and staff easy to work with? _____
- d. What was the quality of the services provided? _____
- e. Was staff proactive in solving problems? _____
- f. What was the extent of staff turnover? (10 = low staff turnover, 1 = high staff turnover) _____
- g. Would you be willing to contract with this company again? (10 = Yes, 1 = No) _____
- h. **TOTAL POINTS** _____

Any additional comments. _____



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AFFIDAVIT OF NON-COLLUSION

(Affiant/Name of person signing this affidavit)

the _____
(Title)

of _____
(Offeror Company)

declares under oath:

I am authorized to submit the enclosed proposal. The proposal is genuine and not a sham or collusive, nor made in the interest of any other person or entity. The prospective offeror has not, directly or indirectly, entered into any agreement whereby different offerors on any project or contract for the City agree either as to who is to be the lowest priced proposer, or as to the amount of any proposal or any part of any proposal, or otherwise taken any action in restraint of free and competitive bidding. The prospective offeror has not disclosed its sealed proposal amount to any other offeror, person, city employee, firm or corporation in the same business doing business in this State, or known to the person disclosing the figures to be likely to submit a proposal for the same contract before the SOQs are opened. All statements contained in the proposal and in this affidavit are true and correct.

(Signature of Affiant)

SWORN TO BEFORE me this ____ day of _____, 20____, in the County of
Maricopa, State of Arizona, by

Notary Public

My Commission Expires:



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CALL FOR ARTISTS; BOND ROADWAY
IMPROVEMENTS PUBLIC ART**

Procurement Division
16000 N. Civic Center Plaza
Surprise, Arizona 85374
Phone: (623) 222-3700
Fax: (623) 222-1801

IMMIGRATION WARRANTY

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. §23-214 related to the immigration status of its employees.

By completing and signing this form the Contractor attests that it and all subcontractors performing work under the cited contract meet all conditions contained in this Immigration Warranty.

Contract Number: 321236		
Name (as listed in the Offer):		
Street Address:		
City:	State:	Zip Code:

I hereby attest that:

1. The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
2. All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature

Printed Name

Title:

Date (month/day/year)



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CERTIFICATE OF INSURABILITY

I hereby certify that I am fully aware of Insurance Requirements contained in the Contract Documents for Solicitation number 321236 and by the submission of this Offer I hereby assure the City that I am able to produce the insurance coverage required if I am awarded the Contract.

If I am awarded the Contract and then become unable to produce the insurance coverage specified within ten (10) working days, I am fully aware and understand that this will make my submission nonresponsive and I will be disqualified for this project and future projects for the City of Surprise.

Signature

Printed Name

Title:

Date (month/day/year)



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TERMS & CONDITIONS EXCEPTIONS

Offeror/Bidder/Company Name: _____

Bidders are to indicate below any exceptions they have taken to the Specifications. An Offeror that takes exceptions to a material requirement of any part of this Solicitation, including Terms and Conditions, may be cause for rejection.

ATTACH ADDITIONAL SHEETS AS NECESSARY.



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LICENSE REQUIREMENTS

Offeror/Bidder/Company Name: _____

- Attach a copy of your City of Surprise Business License to your proposal submittal.

- Offeror does not currently have a City of Surprise Business License, but will obtain and provide a copy upon contract award.

- Attach copies of all required contractor's licenses required to complete this project.



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MBWE/LOCAL VENDOR

Offeror/Bidder/Company Name: _____

Has your firm been certified by any jurisdiction in Arizona as a minority or woman owned business enterprise?

Yes _____, No _____.

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

Does your firm meet the definition of a Local Vendor?

Yes _____, No _____.

“Local Vendor” is defined as having its headquarters, distribution point or locally-owned franchise located within the city limits; City of Surprise business license; and pays City of Surprise TPT Tax. **NO PREFERENCE WILL BE GIVEN TO LOCAL VENDORS.**



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COMPLIANCE WITH A.R.S. § 35-393.01

The State of Arizona has enacted laws that prohibit the City from contracting with companies currently engaged in a boycott of Israel.

A.R.S. § 35-393.01 states:

35-393.01. Contracting; procurement; investment; prohibitions

A. A public entity may not enter into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel.

B. A public entity may not adopt a procurement, investment or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

A.R.S. § 35-393 defines "boycott," "company," and "public entity" as follows:

"Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:

(a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.

(b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.

"Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.

"Public entity" means this state, a political subdivision of this state or an agency, board, commission or department of this state or a political subdivision of this state.

To ensure compliance with A.R.S. §35-393.01, this form must be completed and returned with the response to the Solicitation and any supporting information to assist the City in making its determination of compliance.

All Offerors must select one of the following:

_____ My company **does not** participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. §35-393.01.

_____ My company **does** participate in a boycott of Israel as defined by A.R.S. §35-393.01.

By submitting this response, Offeror agrees to indemnify and hold the City, its agents and employees, harmless from any claims or causes of action relating to the City's action based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the City in defending such an action.

Company Name

Address

City State Zip

Signature of Person Authorized to Sign

Printed Name

Title