

AGREEMENT FOR

Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural and STEM Programs

City of Glendale Solicitation No. RFP 16-09

This Agreement for Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural and STEM Programs ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Wheels In Motion Foundation, an Arizona corporation, Nonprofit 501 c(3), authorized to do business in Arizona (the "Contractor"), as of the 23 day of February, 2016.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, pursuant to Solicitation No. RFP 16-09 (the "Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto;
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. **Key Personnel; Sub-contractors.**

- 1.1 Services. Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.
- 1.2 Project Team.
 - a. Project Manager.
 - (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
 - (2) The City must approve the designated Project Manager; and
 - (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
 - c. Discharge, Reassign, Replacement.
 - (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.

- (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.
- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. Sub-contractors.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Contractor's Work.**

3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Contractor warrants that:

- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

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

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").
- b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

- a. Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.
 - (3) In such case, City shall also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

- 4.1 Compensation. In exchange for providing free after-school programs, organizing community events, and working with the City as a community partner to seek grant funding and sponsorships, Contractor shall receive the right to occupy the City-owned facility rent-free and use the City-owned personal property identified in Exhibits A and B of the City's RFP 16-09 without charge. There is no other compensation due to either the Contractor or the City under this Agreement.
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the *originally* contemplated scope of services as outlined in the Project is significantly modified.
 - a. Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

- c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.

- a. Contractor will be equitably compensated for Goods or Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

6. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

7. Insurance.

7.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.
- b. General Liability.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate for each property damage and contractual property damage.
 - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.

- (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Professional Liability. Contractor must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by the Contractor, or anyone employed by Contractor or anyone for whose acts, mistakes, errors and omissions Contractor is legally liable, with a liability insurance limit of \$2,000,000 for each claim and a \$4,000,000 annual aggregate limit.

In the event that the professional liability insurance required is written on a claims-made basis, any retroactive date under the policy shall precede the effective date of this Agreement 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 Agreement is completed.

- e. Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- f. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- g. Certificates of Insurance.
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.
- h. Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

- i. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

7.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

7.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8. Immigration Law Compliance.

- 8.1 Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

9. Notices.

- 9.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
- a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

9.2 Representatives.

- a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Wheels In Motion Foundation
c/o Michelle Tellez
14950 West Jomax Road
Surprise, Arizona 85387

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Mike Gregory
5959 West Brown Street
Glendale, Arizona 85302
623-930-2652

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

10. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

11. **Entire Agreement; Survival; Counterparts; Signatures.**

11.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

11.2 Interpretation.

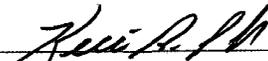
- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.

- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.
- 11.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
- 11.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.
- 11.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 11.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.
- 11.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
12. **Term**. The term of this Agreement commences upon the effective date and continues for a two (2)-year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional three (3) years, renewable on an annual basis. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least thirty (30) calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.
13. **Dispute Resolution**. Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit B. The final determination will be made by the City.
14. **Exhibits**. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.
- | | |
|-----------|--------------------|
| Exhibit A | Project |
| Exhibit B | Dispute Resolution |

(Signatures appear on the following page.)

The parties enter into this Agreement as of the effective date shown above.

City of Glendale,
an Arizona municipal corporation


By: Kevin R. Phelps
Its: City Manager

ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

Wheels In Motion Foundation,
Arizona corporation, Nonprofit 501 c(3)


By: Michelle Tellez
Its: Secretary

EXHIBIT A

Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural and STEM Programs

City of Glendale Solicitation No. RFP 16-09

PROJECT

PROJECT

The Contractor, Wheels In Motion Foundation, will conduct after-school, summer recreation, cultural and STEM programs as well as, operate, manage and maintain the 1,350 sq. ft. X-Court building located at Glendale Heroes Regional Park, 6101 N. 83rd Avenue, Glendale, Arizona 85303. Additional services provided may include, but are not limited to, offering classes and lessons, promoting special events, retail sales, safety rental equipment, and minor equipment repairs. The operations shall also incorporate a bicycle/skate board component and optional concession operations as set forth in Request for Proposals 16-09.

EXHIBIT A



CITY OF GLENDALE MATERIALS MANAGEMENT REQUEST FOR PROPOSAL

SOLICITATION NUMBER: RFP 16-09

DESCRIPTION: Glendale Heroes Regional Park - After-School, Summer Recreation, Cultural & STEM Programs

PUBLISHED DATE: October 8, 2015

OFFER DUE DATE AND TIME: November 17, 2015 before 2:00 PM local time

PRE-PROPOSAL MEETING: October 22, 2015 AT 9:00 AM
The pre-proposal site visit and opportunity to ask questions will be held at Glendale Heroes Regional Park X-Court Building, 6101 North 83rd Avenue, Glendale, AZ 85303. Non-mandatory

SUBMITTAL LOCATION: City of Glendale
Materials Management
5850 West Glendale Avenue, Suite 317
Glendale, Arizona 85301

Proposals must be in the actual possession of Materials Management on or prior to the time and date, and at the location indicated. Materials Management is located on the third (3rd) floor of the Glendale Municipal Office Complex (City Hall) in the Engineering Department. Proposals are accepted from the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise indicated for a holiday. All proposals will be received and time/date stamped at the Engineering Department's window. Late proposals will not be considered.

Proposals must be submitted in a sealed envelope with the Solicitation Number and the Offeror's name and address clearly indicated on the envelope. See Paragraph 2.3 for additional instructions for preparing an offer.

Proposals shall be opened publicly at the time, place and location designated on this page. Only the name of each Offeror shall be publicly read and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing Offerors.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

For questions regarding this solicitation contact:
Crista Clevenger, Contract Analyst
(623) 930-2865
CClevenger@glendaleaz.com



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

SECTION		PAGES
	NOTICE: REQUEST FOR PROPOSALS 16-09	1
	TABLE OF CONTENTS	2
1.0	SPECIFICATIONS	3 - 6
2.0	SPECIAL INSTRUCTIONS	7 - 11
3.0	SPECIAL TERMS AND CONDITIONS	12 - 16
4.0	OFFER SHEET	17
5.0	PRICE SHEET	18
	EXHIBIT A – PROPERTY INVENTORY	19
	EXHIBIT B - FLOOR PLAN	20
	ATTACHMENT A – SAMPLE AGREEMENT	21

	<p>City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs</p>	<p>CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301</p>
--	---	--

1.0 SPECIFICATIONS

1.1 INTRODUCTION

The City of Glendale (“City”) is soliciting qualified businesses or individuals to conduct after-school, summer recreation, cultural and STEM programs as well as, lease, operate, manage and maintain the 1,350 sq. ft. X-Court building located at Glendale Heroes Regional Park, 6101 N. 83rd Avenue, Glendale, Arizona 85303. Additional services provided may include, but are not limited to, offering classes and lessons, promoting special events, retail sales, safety rental equipment, and minor equipment repairs. The operations shall also incorporate a bicycle/skate board component and the concession area.

Please keep in mind the general characteristics of the X-Court and its users when establishing your proposal and programs.

1.2 GENERAL

The City of Glendale has a population of approximately 235,000 and is located on the northwest boarder of Phoenix. Glendale is the fifth largest city in Arizona and has been one of the fastest-growing cities in one of the fastest-growing metropolitan areas in the United States over the past three decades.

Located at the Glendale Heroes Regional Park is the ±25,000 sq ft skate/BMX court with a 1,350 sq ft control and concession building which opened to the public in 2007. The regional facility is adjacent to residential neighborhoods, the Glendale Public Safety Building and the Grand Canal Linear Park and Trail. Grand Canal Linear Park is an 80 acre linear park and pedestrian/equestrian staging area that runs along Grand Canal from 75th Avenue and Camelback Road to 99th Avenue and Bethany Home Road. Close by are four elementary schools, Desert Mirage, Discovery, Sunset Ridge and Coyote Ridge, along with a nine-acre neighborhood park. The Glendale Sports Complex (NHL Arena and NFL stadium) is approximately one mile away. The X-Court, which is designed to accommodate BMX, skateboards and scooter use, is a public facility and shall remain open to the public. The estimated average weekday attendance at the X-Court is 75 and the average weekend attendance is 200+. Additional developed amenities within the park include a 10,000 sq ft splashpad, turf, basketball courts, and a large Ramada complex that has a seating capacity of nearly 900 people.

1.3 FEES & SUPERVISION

The Skate Court is not supervised and no entry/membership fees are charged. Fees for admission/membership in the X-Court will not be considered as part of this proposal. Proposals requiring supervision of the Skate Court other than for classes, programs, special events or similar will not be considered.

The free, prime time core after-school, summer recreation, cultural and STEM programs shall be offered at the X-court building. Fees may be charged for additional classes and services offered to cover direct overhead of each program. **All program and event fees are subject to prior approval by the Community Services Department.**

For this proposal, prime time shall be considered 12:00 p.m. to 6:00 p.m. Monday through Saturday during the summer period and 3:00 p.m. to 6:00 p.m. during the school year. The Glendale Elementary School District school calendar shall be recognized as the timetable to determine after-school and summer programming hours.



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

1.4 TENANT RESPONSIBILITIES

1.4.1 Operations & Maintenance

Lessee shall furnish prompt and courteous service; and shall keep the building attractively maintained, orderly, safe, clean, and sanitary inviting condition at all times, and to the reasonable satisfaction of the City. Lessee shall not employ any person on or about the location who shall fail to be courteous, efficient and neat in appearance or who shall use improper, obnoxious or rude language or act in a loud or boisterous or otherwise improper manner.

The lessee is limited solely to the appropriate activities on the property. No nudity or adult entertainment of any sort is permitted at the location. Gambling activities of all sorts are prohibited.

No person shall be denied use of the facilities because of race, sex, age, color, religion, national origin, or political affiliation.

1.4.2 Pouring Rights – (Food Concession)

Lessee shall have sole and exclusive rights to all concession sales at the X-Court building concession. Pricing of concession items shall be in accordance with similar facilities within the Phoenix metropolitan area. The Lessee shall have sole authority to establish prices, but shall submit any changes to the City within thirty (30) days of their proposed change. If applicable, an A1 or Gold rating from the Maricopa County Health Department will be required at all times. This shall also include products sold in vending machines.

1.4.3 Sale of Chewing Gum, Alcohol, and Tobacco Products

No chewing gum, alcohol or tobacco products shall be sold at the concession and shall be grounds for termination of this lease agreement if not strictly adhered to.

1.4.4 Hours and Days of Operation

Heroes Regional Park hours are 6 am to 10 pm daily. The required hours of operation for the X-Court building shall coincide with the Glendale Elementary School District calendar, Monday-Friday 3pm-6pm, with summer hours of 12pm - 6pm. Weekends shall be open based on a schedule mutually agreed upon by both parties. Changes to the operating schedule can be made only with the prior written notification to the City at least thirty (30) days in advance of any change. The City reserves the right to approve or deny any proposed changes to the operating schedule.

After hours for special events may be approved by the City with prior written notification and may include rental fees.

1.4.5 Utilities

The City guarantees monthly payment of all electric, water, sanitation, cable (internet service) and sewer charges. The cost of any other utilities (i.e. telephone) to be at the sole expense of the Lessee.

1.4.6 Concession and Inventory

1.4.6.1 The Lessee will be responsible for the cleaning and maintenance of all appliances and other items related the concession stand. Major repairs and/or replacements will be addressed by COG. The City shall inspect concession inventory and guarantee all



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

appliances and other items are in working order prior to Lessee assuming responsibility (Exhibit A).

- 1.4.6.2 The equipment left behind shall remain the property of the City once the contract has expired. The contractor shall ensure the building is left in proper working order with all equipment and facilities working properly at the end of the contract.
- 1.4.6.3 The Lessee shall keep the entire facility clean and properly maintained. The facility is subject to inspection by the City or designee with or without notice.
- 1.4.6.4 The Lessee shall not make alterations, additions or improvements to the facility without prior written consent by the City. All alterations, additions and improvements shall be deemed to be the property of the City at the termination of the Contract.
- 1.4.6.5 Offerors shall fully comply with all laws, ordinances, rules and regulations of the United States, State of Arizona, County of Maricopa and the City of Glendale, including specific City regulations related to building permits and fees, zoning, use permit stipulations and regulations regarding alcoholic beverages, nuisance abatement, immoral conduct, smoking/non-smoking, privilege, and use excise taxes.
- 1.4.6.6 Concession shall maintain a one hundred (100%) percent rating or GOLD rating with the Maricopa County Health Department. Less than 100% rating defects shall be remedied within fourteen (14) days. All inspection reports will be retained on site.
- 1.4.6.7 In addition to license payments required under the Concession License Agreement, transaction privilege taxes, at the rate provided by law, shall be paid by the Lessee. Questions pertaining to the applicability of taxes should be directed to the City's Tax & License Division at (623) 930-2210.

1.4.7 Good Stature

All offerors must be of good moral character and must not have been convicted of a felony or crime involving moral turpitude in the last ten (10) years. All offerors must agree to submit to background checks as deemed necessary by the City.

1.4.8 Use Fees

The Lessee will pay to the City "Use Fees" to be determined by this process. Fees may be charged for programs outside of the core programming hours as outlined in the document. The core program hours are considered 3 p.m. to 6 p.m. during the school year and 12 p.m. to 6 p.m. during the school summer break. The award will not be based on price alone, nor will it be based solely upon the lowest fees submitted.

1.4.9 Cross Marketing

The Lessee shall agree to promote other City activities, facilities and concessions by prominently displaying related brochures, schedules or other such parks and recreation literature. The City will provide to the Concessionaire all necessary material.

1.4.10 Signs

The Lessee shall not place any permanent signage or advertisement upon any property of the City under any contract or agreement which may result from this proposal without written approval by the City. Notification to the City shall occur within at least sixty (60) days in advance of the sign or advertisement installation and after securing all appropriate and

 <p>GLENDALÉ</p>	<p>City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs</p>	<p>CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301</p>
--	---	--

required permits, as applicable. Lessee is responsible for all associated costs. Temporary directional signage or event-related banners may be placed on the property as needed.

1.4.11 Audit

If percentage of gross sales is the determined Use Fee, a monthly sales report shall be submitted with payment detailing the calculation of such Use Fee. The Lessee shall also furnish the City with an annual financial report, as well as a statement of gross revenue.



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

2. SPECIAL INSTRUCTIONS

2.1 PRE-PROPOSAL FACILITY VISIT

A pre-proposal site walk-thru and opportunity to ask questions will be held on **October 22, 2015, 9:00 A.M., Local Time**, located at Glendale Heroes Regional Park X-Court Building, 6101 North 83rd Avenue, Glendale, AZ 85303

2.1.1 Attendance is not mandatory. Copies of the Request for Proposal (RFP) will NOT be available.

2.1.2 The purpose of the site visit will be to clarify the contents of the solicitation in order to prevent any misunderstanding of the City of Glendale's position. Any doubt as to the requirements of the solicitation or any apparent omission or discrepancy should be presented to the City at the conference. The City will determine the appropriate action necessary, if any, and issue a written amendment to the solicitation if required. Oral statements or instructions will not constitute an amendment to the solicitation.

2.2 RETURN OF OFFER The Offeror shall submit three (3) hardcopies marked as "Copies". The offeror shall submit a complete proposal on a CD or flash drive as one file folder. The folder shall be identified as "RFP 16-09 – 'Original - Name of Offeror.'" (For example: RFP 16-09 – Original - ABC Company.)

The proposal responses and copies shall be submitted in a bound format (i.e. three (3) ring loose-leaf binders, spiral and/or report covers). Proposals should be divided by tab sections according to items listed in the **Preparation of Offer Package** of these Special Instructions. This will assist the evaluation panel in identifying items and information submitted within the proposal. Offerors may reproduce the forms and recreate information, but all of the required information must be presented in the order requested.

The Offeror shall complete all sections of the solicitation in the format given in the space provided. If additional space is needed than what is given, enter "See attachment for detail." Offers that do not conform to the above format may be rejected.

2.3 PREPARATION OF OFFER PACKAGE The following items shall be completed and returned including the written, narrative responses required in section 2.4 Submission Requirements. Failure to include all the items may result in an offer being rejected. Offer packages shall be submitted in the following order:

2.3.1 **COVER SHEET**

2.3.2 **OFFER SHEET, Section 4.0**

2.3.3 **PRICE SHEET, Section 5.0**

2.3.4 **ADDENDUM, Return all addenda (if applicable).**

2.3.5 **SUBMISSION REQUIREMENTS, Section 2.4 (written narrative)**

2.4 SUBMISSION REQUIREMENTS

Offeror's should provide written, narrative responses for each item requested within the criteria below. *Unnecessarily elaborate responses beyond that sufficient to present a complete and effective response to this solicitation are not desired. Do not provide general answers or reference to sales literature.* When applicable, supporting documents should be attached and reference the appropriate criterion. Offeror's, at a minimum must submit the following information:



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

2.4.1 EXECUTIVE SUMMARY.....(25%)

The purpose of this requirement is to determine your level of experience and qualifications and the appropriateness of the proposed business as it relates to the demographics of the park users.

2.4.1.1 State your total years of experience in providing the services you're proposing.

2.4.1.2 Include a statement that explains why the proposer is qualified to develop, operate, manage and market the proposed business and why the proposer would be the best selection.

2.4.1.3 Provide details of pertinent experience of principals directly involved in the management, operation, maintenance and improvements to which the proposal relates.

2.4.2 BUSINESS / OPERATING PLAN/PROGRAM CONCEPT.....(35%)

Describe in general terms your management and operation plan.

2.4.2.1 Provide any other information you feel will be helpful in evaluating your ability to successfully manage, operate, maintain and improve the facilities at the skate court/building. This may include but is not limited to a marketing plan, maintenance program (routine and seasonal), food and beverage operations and additional services.

2.4.2.2 Appropriateness of the proposed business as it relates to the demographics of the park users and their needs.

2.4.2.3 Include hours of operation and days the building will be open. Include a proposed fee structure for services provided, reasonableness of projected revenues and expenses and a proposed layout and use of the building space (see Appendix A – Building Floor Plan).

2.4.3 FINANCIAL PLAN.....(15%)

2.4.3.1 Proposal should contain information of financial responsibility to show that the offeror has the ability to operate and maintain any proposed business at the City's Facilities. The City reserves the right to require additional financial information from the Offeror or its principals before awarding the lease.

2.4.4 REFERENCES / PRINCIPALS.....(25%)

2.4.4.1 Provide the name, address and phone number of a minimum of three (3) agencies/firms with whom you have conducted business transactions during the past three (3) years.

2.4.4.2 Provide details of pertinent experience of persons directly involved in the management, operation, maintenance and improvements to which the proposal relates.

2.4.5 LITIGATION/CLAIMS/JUDGMENTS

Please provide case name, case number and jurisdiction information on any type of litigation, judgments, claims or government investigations (previous or pending) involving any principals, participants, financial backers, or legal business entity associated with this proposal.



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

- 2.5 **EVALUATION CRITERIA** The evaluation criteria is weighted in accordance with the Submission Requirements, section 2.4.
- | | | |
|-------|-----------------------------------|-----|
| 2.5.1 | Executive Summary | 25% |
| 2.5.2 | Business / Operating Plan/Concept | 35% |
| 2.5.3 | Financial Plan | 15% |
| 2.5.4 | References / Principals | 25% |
- 2.6 **ALTERNATE OFFERS/EXCEPTIONS**
- Offers submitted as alternates, or on the basis of exceptions to specific conditions of purchase and/or required specifications, must be submitted as an attachment referencing the specific paragraph number(s) and adequately defining the alternate or exception submitted. Detailed product brochures and/or technical literature, suitable for evaluation, must be submitted with the Offer. If no exceptions are taken, City will expect and require complete compliance with the specifications and all conditions of purchase.
- 2.7 **SITE INSPECTION** Offeror shall visit the site(s) to become familiar with any conditions which may affect the performance and pricing. Submission of an Offer will be prima facie that the Offeror did, in fact, make a site inspection and is aware of all conditions.
- 2.8 **INQUIRIES** Any question related to the Request for Proposal shall be directed to the Contract Analyst whose name appears on the notice page. An Offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Analyst may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, no later than **five days** prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such; otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.
- 2.9 **EVALUATION PANEL** Offeror submittals will be evaluated by an evaluation panel. Award shall be made to the responsive, responsible Offeror whose proposal is determined to be the most advantageous to the City.
- 2.10 **PANEL CONTACT** Offerors shall have no exclusive meetings, conversations or communications with an individual evaluation panel member on any aspect of the RFP, after submittal.
- 2.11 **INTERVIEWS** The City reserves the right to conduct interviews with some or all of the Offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the Offeror for the costs associated with the interview process.
- 2.12 **ADDITIONAL INVESTIGATIONS** The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any Offeror submitting a proposal.
- 2.13 **DISCUSSIONS AND REVISIONS TO PROPOSAL** Discussions may be conducted with responsible Offerors who submit proposals determined to be reasonably susceptible of being selected for award; and may obtain pertinent information for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Should the City elect to call for 'best and final' offers, Offerors shall be accorded fair and equal treatment with respect to



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Offerors. The purposes of such discussions shall be to:

- 2.13.1 Determine in greater detail such Offeror's qualifications, and
 - 2.13.2 Explore with the scope and nature of the project, the Offeror's proposed method of performance, and the relative utility of alternate methods of approach;
 - 2.13.3 Determining that the Offeror will make available the necessary personnel and facilities to perform within the required time;
 - 2.13.4 Agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.
- 2.14 **BEST AND FINAL OFFERS** The City may request best and final offers if deemed necessary, and will determine the scope and subject of any best and final request.
- 2.15 **PROPOSAL EVALUATION** The City reserves the right to secure additional information from the Offeror in various forms and or to award based on submitted information.
- 2.16 **NOTICE OF INTENT TO AWARD AND PROTEST PERIOD** Information about the recommended award for this solicitation will be posted on the Internet. The information will be available for review on the City's Materials Management Internet home page www.glendaleaz.com/purchasing immediately after the City has completed its evaluation process of the offers received. If you have any questions, or would like further information about an intended award, contact the contract analyst immediately. Any protest must be submitted to the Materials Manager no later than seven (7) calendar days from the date of posting on the Internet.
- Please go to: <http://www.glendaleaz.com/Purchasing/doingbusinesswithglendale.cfm> for information and instructions on how to file a protest with the City of Glendale.
- 2.17 **WITHDRAWAL OF PROPOSAL** At any time prior to the specified solicitation due date and time, an Offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
- 2.18 **OFFER ERRORS OMISSIONS AND CORRECTIONS** The City will not be responsible for any offeror errors or omissions. All prices and notations shall be written in ink or typed. Changes or corrections made on the offer form must be initialed in ink by the individual signing the offer. No corrections will be permitted after the offers have been opened.
- 2.19 **COMPETITIVE NEGOTIATIONS** Exclusive or concurrent negotiations may be conducted with responsible Offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful Offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified offeror(s).

	City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs	CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301
--	--	---

2.20 NO CONTACT, NO INFLUENCE DURING THE RFP PROCESS The City is conducting a competitive RFP process for the contract, free from improper influence or lobbying. There shall be no contact concerning this RFP from Offerors submitting a Proposal with any member of the City Council, RFP Evaluation Committee Members, or anyone connected with the process for or on behalf of the City. Contact includes direct or indirect contact by the Offeror, its employees, attorneys, lobbyists, surrogates, etc. in an attempt to influence the RFP process.

From the time the RFP is issued until the expiration of the protest period or the resolution of any protest, whichever is later (the "Black-Out Period"), Offerors, directly or indirectly through others, are restricted from attempting to influence in any manner the decision making process through, including but not limited to, the use of paid media; contacting or lobbying the City Council or City Manager or any other City employee (other than Material Management employees); the use of any media for the purpose of influencing the outcome; or in any other way that could be construed to influence any part of the decision-making process about this RFP. This provision shall not prohibit an Offeror from petitioning an elected official or engaging in any other protected first amendment activity after the protest period has run or any protest has been resolved, whichever is later.

Violation of this provision will cause the proposal or offer of the Offeror to be found in violation and to be rejected.

2.21 PROPRIETARY INFORMATION An Offeror shall clearly mark any proprietary information contained in its bid with the words "Proprietary Information." Offeror shall not mark any Solicitation Form as proprietary. Pricing data shall not be considered proprietary. Marking all, or nearly all, of a bid as proprietary may result in rejection of the bid.

Offeror's acknowledge that the City is required by law to make certain records available for public inspection. In the event that the City receives a request for disclosure of Proprietary Information by any person, court, agency or administrative body, or otherwise has a reasonable belief that it is obligated to disclose the Proprietary Information to any such person or authority, the City will provide Offeror with prompt written notice so that Offeror may seek a protective order or other appropriate remedy. The Offeror, by submission of materials marked Proprietary Information, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Offeror in the event that the City must legally disclose the Proprietary Information.

	City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs	CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301
--	--	---

3.0 SPECIAL TERMS AND CONDITIONS

- 3.1 **TERM OF AGREEMENT** The initial term of the contract shall be for two (2) years upon approval by the City Council.
- 3.2 **OPTION TO EXTEND** The City may, at its option and with the approval of the Contractor, extend the term of this agreement three (3) additional years in one (1) year increments based on satisfactory Contractor performance. Contractor shall be notified in writing by the City Materials Manager of the City's intention to extend the contract period at least sixty (60) calendar days prior to the expiration of the original contract period. Price adjustments will only be reviewed during contract renewal.
- 3.3 **PRICE ADJUSTMENTS** Contractor shall submit a request for a rate increase a minimum of sixty (60) days prior to the contract renewal date. The request shall be in writing and include supportive justification for the proposed increase. The rate increase shall only be considered at time of contract extension. The City will review the request and shall determine if the increase shall be granted or if an alternate option is in the best interest of the City. The price increase adjustment, if approved, will be effective and executed via a contract amendment.
- 3.4 **INCORPORATION BY REFERENCE** All responses shall incorporate by reference the Scope/Specifications, terms and conditions, general instructions and conditions and any attachments or exhibits. The Standard Terms and Conditions applicable to this solicitation are posted on the Internet. They are available for review and download at the City's Materials Management Internet home page, www.glendaleaz.com/purchasing. Offerors are advised to review all provisions of the General Instructions and Conditions for this solicitation.
- 3.5 **INSURANCE** Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.
 - 3.5.1 **MINIMUM SCOPE AND LIMIT OF INSURANCE**
Coverage shall be at least as broad as:
 - 3.5.2 **Commercial General Liability (CGL):** Insurance covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence, **\$2,000,000** aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - 3.5.3 **Automobile Liability:** Insurance covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
 - 3.5.4 **Property Insurance:** Property insurance on the building is only required if the Lessee is the sole occupant of the building.
 - Coverage on Lessee's contents replacement value \$ _____
 - Coverage on building replacement value \$ _____
 - 3.5.4.1 Property insurance shall be written on an "all risk, replacement cost coverage, including coverage for flood and earth movement.

	City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs	CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301
--	--	---

3.5.4..2 If property coverage on the building is required, *"the City of Glendale shall be named as a loss payee."*

3.5.4..3 Policy shall contain a waiver of subrogation endorsement in favor of the "City of Glendale, and its departments, officers, officials, agents, employees and volunteers" for losses arising from the Lease. This provision applies regardless of whether or not the City of Glendale has received a waiver of subrogation endorsement from the insurer.

3.5.5 **Professional Liability (Errors and Omissions Liability):** Policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope.

- Each Claim \$2,000,000
- Annual Aggregate \$4,000,000

In the event that the professional liability insurance required is written on a claims-made basis, any retroactive date under the policy shall precede the effective date of this Agreement; 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 Agreement is completed.

3.5.6 **Workers' Compensation:** as required by the State of Arizona, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status The City, its officers, officials, employees, and volunteers are to be covered as additional insured's on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations.

Primary Coverage For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

Waiver of Subrogation Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

	City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs	CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301
--	--	---

Verification of Coverage Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received by the Contract Administrator and approved by the City before work commences.

DO NOT SEND CERTIFICATES TO RISK MANAGEMENT. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

3.6 INDEMNIFICATION CLAUSE:

To the extent allowed by law, Contractor shall defend, indemnify, and hold harmless the City of Glendale, and its departments, boards, commissions, officers, officials, agents, employees and volunteers (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the City of Glendale, its officers, officials, agents, employees and volunteers for losses arising from the work performed by the Contractor for the City of Glendale.

3.7 CONFLICT OF INTEREST Contractor shall disclose the following: 1) the name(s) and position(s) of each Contractor's employee or subcontractor that participated in the preparation of the submittal or who will be involved, directly or indirectly, with performing the contract, if awarded; 2) the name(s) of any City of Glendale employee who is a relative of persons identified pursuant to No. 1; 3) the name(s) and position(s) of Contractor's personnel that have a financial or proprietary interest in the contract; 4) the name(s) of any City of Glendale employee who is a relative of persons identified pursuant to No. 3.

Providing such disclosure will not necessarily disqualify a Contractor. Failure to disclose the requested information or any potential conflict of interest pursuant to A.R.S. § 38-501 et seq. may result in rejection of the proposal or bid or any contract being void or terminated.

For purposes of this provision, the following definitions apply:

"Employee" means all persons who are employed on a full-time, part-time or contract basis by the City of Glendale.

"Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

	City of Glendale Solicitation Number: RFP 16-09 Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural & STEM programs	CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301
--	--	---

3.8 ESTIMATED QUANTITIES The Quantities listed are the City’s best estimate and do not obligate the City to order or accept more than City’s actual requirements during the period of this agreement as determined by actual needs and availability of appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirements for the contract period, except that the estimated quantity shown for each proposal item shall not be exceeded by 100% without the express written approval of the Materials Manager. Any demand or order made by any employee or officer of the City, other than the Materials Manager, for quantities in the excess of the estimated quantities shall be void if the written approval of the Materials Manager was not received prior to the Contractor's performance.

3.9 COOPERATIVE USE OF CONTRACT This agreement may be extended for use by other governmental agencies and political subdivisions of the State, including all members of SAVE (Strategic Alliance for Volume Expenditures). Any such usage by other entities must be in accord with the ordinances, charter, rules and regulations of the respective entity and the approval of the Contractor and City. For a list of SAVE members, click on the following link: <http://www.maricopa.gov/Materials/save.aspx>.

3.10 PUBLIC RECORD Contractor acknowledges that the City is a public agency and must comply with all Public Records laws. All proposals submitted in response to the Solicitation shall become the property of the City and, subsequent to award recommendation, become a matter of public record available for review pursuant to Arizona Public Records Law.

If a Contractor believes that a specific section of its Proposal response is confidential, that should be withheld from the public record, Contractor shall isolate the pages and mark each page confidential in a specific and clearly labeled section of its Proposal response. The Contractor shall include a written statement as to the basis for considering the marked pages confidential including the specific harm or prejudice if disclosed.

The City Materials Management Division will review the material and make a determination as to the confidentiality of any of the information and/or material contained within the Submittal. In the event of a public records request for documents Contractor deems confidential, the City will notify Contractor of the request and if Contractor claims such documents are confidential, it shall be the Contractor’s sole responsibility, including sole cost, to take appropriate action, including legal action, to protect such documents. Price is not confidential and will not be withheld.

3.11 PERMITS AND LICENSES The Contractor and Subcontractors shall be responsible for determining and securing, at his/her expense, any and all licenses and permits that are required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction in any manner connected with providing operations and maintenance of the facility. Such fees shall be included in and are part of the total proposal cost. During the term of the contract, the Contractor shall notify the City in writing, within two (2) working days, of any suspension, revocation or renewal.

3.12 CERTIFICATION By signature on the Offer/Bid page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Contractor certifies:

The submission of the offer did not involve collusion, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

or other anti-competitive practices. The Contractor shall not discriminate against any employee or applicant for employment in violation of Federal or State law. 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, meal or service to a public servant in connection with the submitted offer. The Contractor hereby certifies that the individual signing the submittal is an authorized agent for the Contractor and has the authority to bind the Contractor to the Contract.

3.13 KEY PERSONNEL Contractor shall assign specific individuals to the key positions in support of the Contract. Once assigned to work under the Contract, key personnel shall not be removed or replaced without the prior written approval of the City. Upon the replacement of any key personnel, Contractor shall submit the name(s) and qualifications of any new key personnel to the City Contract Administrator or Designee. With the concurrence of the Contract Administrator or Designee, the City shall amend the Contract to reflect the name(s) of any replacement key personnel. Upon any unplanned departure of key personnel, Contractor shall immediately notify the Contract Administrator or Designee.

For this purpose, a primary and secondary emergency contact name and phone number are required from the Contractor. It is critical to the City that the contractor's emergency contact information remains current. The Materials Management staff member, identified on page 1, is to be contacted by E-mail with any change to a contact name or phone number.

All products or services provided to meet an emergency phone request are to be supplied as per the contract prices, terms and conditions. The Contractor may provide the fee (pricing) for an after-hours emergency opening of the business separate from the Price Sheet. In general, the order will be placed using a City Procurement Card. The billing is to include the emergency opening fee, if applicable.

3.14 PRICE & PRICE ADJUSTMENTS All prices quoted shall be firm and fixed for the initial contract period. Price adjustments shall be addressed a minimum of sixty (60) days prior to the contract renewal date, shall be in writing and include supportive justification for the proposed increase. The rate increase shall only be considered at time of contract extension. The City will review the request and shall determine if the increase shall be granted or if an alternate option is in the best interest of the City. The price increase adjustment, if approved, will be effective and executed via a contract amendment.

3.15 ADDITIONS OF PRODUCTS OR SERVICES The City reserves the right to add additional products or services to this contract when deemed necessary by the City. If this occurs, the Contractor will be requested to submit a negotiable quotation for the additions. Upon approval and authorization by the Materials Manager such additions will be added to and become a part of the contract through properly executed forms.

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



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

[Faint, illegible text]

5.0 PRICE SHEET

Please provide your estimate of expected average annual net operating income to be derived from the approximately 25,000 sq. ft. skate court and the 1,350 sq ft building during your first three operating years. **The format for the table should be:** sources of revenues listed (i.e..... food/beverage, retail sales, lessons, repairs, rentals, classes/clinics, special events, etc...) along the left hand side of the worksheet, with the heading for the next three columns as "estimate year 1", "estimate year 2", and "estimate year 3". Below that use a similar format showing anticipated expenses (i.e. supplies, payroll, insurance, utilities, etc).

In addition, using a format similar to below please include the annual rent you propose to pay the City of Glendale. If the amount is zero (0), then place a "N/A" in each space that is not applicable. **At the bottom of the sheet, please explain an alternative form of compensation, monetary or otherwise.**

The amount of guaranteed annual rent (base rent) – **if any:**

\$ _____ for lease year one
 \$ _____ for lease year two
 \$ _____ for lease year three
 and/or

Note: All estimated expenditures and receipts stated in this section or in any of the following sections shall be stated in 2015 dollars.

If the proposer chooses not to provide monetary compensation, please use the space below to explain what in-kind or alternative compensation should be considered.

Alternative Compensation to the City:

Wheels in Motion is seeking an in-kind lease in exchange for services which include providing free after school programs, organize community events, work with the city as a community partner to seek grant funding + sponsorship

OFFEROR NAME: *Michelle Jolley* authorized signor on behalf of *Wheels in Motion Foundation*

5.2 PAYMENT Payments to the City, if any, shall be determined by this solicitation.



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

EXHIBIT A

Property Inventory

1. 1 each Sliding Service Window
2. 1 each Mop Sink
3. 1 each Water Heater
4. 1 each Double Sink
5. 1 each Three Compartment Sink
6. 2 each Stainless Steel Countertop
7. 1 each Ice Dispenser
8. 1 each Refrigerator/Freezer
9. 4 each Security Cameras
10. 1 each Security Digital Recorder (Monitor)
11. 1 each Alarm System Keypad
12. 4 each Alarm System Sensors
13. 1each Electrical Panels
14. 1 each Transformer
15. 1 each Air Conditioning Unit



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

EXHIBIT B

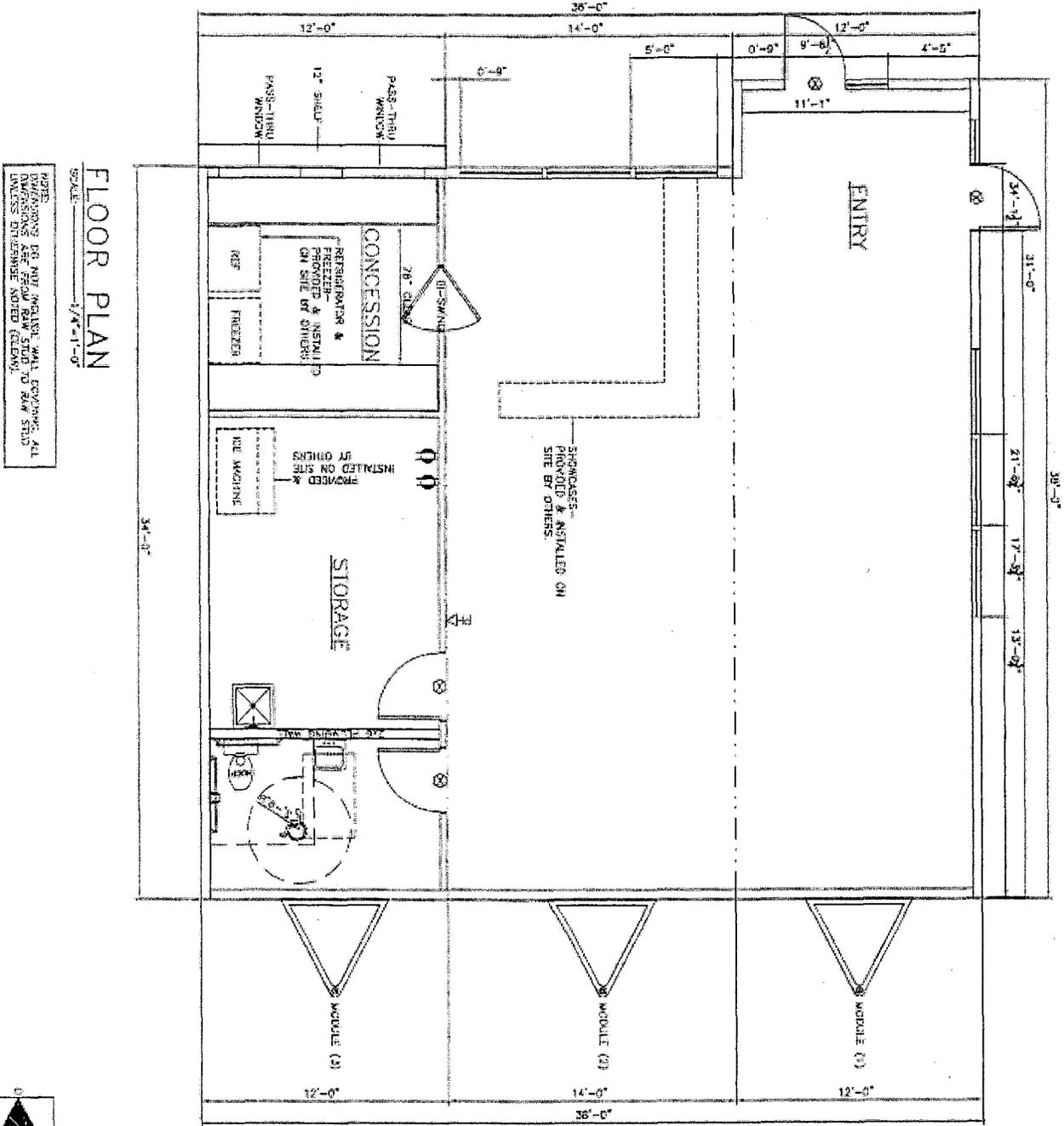
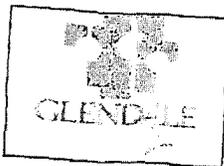


EXHIBIT B



City of Glendale
Solicitation Number: RFP 16-09
Glendale Heroes Regional Park - After-school,
Summer Recreation, Cultural & STEM programs

FOR OFFICIAL USE ONLY
 (b) (5) - DPP
 (b) (5) - ACP
 (b) (5) - AWP
 (b) (5) - ACP
 (b) (5) - AWP

5.0 PRICE SHEET

Please provide your estimate of expected average annual net operating income to be derived from the approximately 25,000 sq. ft. skate court and the 1,350 sq ft building during your first three operating years. **The format for the table should be:** sources of revenues listed (i.e..... food/beverage, retail sales, lessons, repairs, rentals, classes/clinics, special events, etc...) along the left hand side of the worksheet, with the heading for the next three columns as "estimate year 1", "estimate year 2", and "estimate year 3". Below that use a similar format showing anticipated expenses (i.e. supplies, payroll, insurance, utilities, etc).

In addition, using a format similar to below please include the annual rent you propose to pay the City of Glendale. If the amount is zero (0), then place a "N/A" in each space that is not applicable. **At the bottom of the sheet, please explain an alternative form of compensation, monetary or otherwise.**

The amount of guaranteed annual rent (base rent) – if any:

\$ _____ for lease year one
 \$ _____ for lease year two
 \$ _____ for lease year three
 and/or

Note: All estimated expenditures and receipts stated in this section or in any of the following sections shall be stated in 2015 dollars.

If the proposer chooses not to provide monetary compensation, please use the space below to explain what in-kind or alternative compensation should be considered.

Alternative Compensation to the City:

Wheels in Motion is seeking an in-kind lease in exchange for services which include providing free after school programs, organize community events, work with the city as a community partner to seek grant funding + sponsorship

OFFEROR NAME: *Michelle Kelley authorized signor on behalf of Wheels in Motion Foundation*

5.2 **PAYMENT** Payments to the City, if any, shall be determined by this solicitation.

EXHIBIT B

Glendale Heroes Regional Park - After-school, Summer Recreation, Cultural and STEM Programs

City of Glendale Solicitation No. RFP 16-09

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.