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 CITY OF PHOENIX AVIATION DEPARTMENT

Addendum No. 1

Revenue Contract Solicitation (RCS) AVN RCS 23-005

Terminal 4 South 1 Concourse Food & Beverage Concessions Phase II at Phoenix Sky Harbor International Airport

QUESTIONS AND ANSWERS

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The following questions were submitted by interested Respondents and are represented as they were received.	
Q1	Changes in material clauses mean “WILL be disqualified” or “MAY be”?
Answer	The City will not accept any changes to the material provisions or requirements of this RCS or Lease. Responses including exceptions or changes, or that are conditional, are subject to rejection as non-responsive Responses. See Section I (M).
Q2	Can the proposer submit their proposal electronically and hard copy?
Answer	Responses may be submitted electronically or in-person. There is no prohibition in the RCS precluding Respondents from submitting both electronically and in-person. The Response Guarantee and notarized affidavit, regardless of the Response submission method, must be received at the Aviation Headquarters located at 2485 East Buckeye Road, Phoenix, AZ 85034 by the Solicitation Deadline as indicated in the Schedule of Events. See Section III (B) and Section III (C).
Q3	Who are the primes that was awarded the solicitation? Have all the concession stores been named or decided on.
Answer	For the concession spaces included in Phase I, The Grove, Inc. was awarded the Lease for Package 1 and Emerging Domestic Market Ventures, LLC was awarded the Lease for Package 2. See Section II (G) on page 24 of the RCS. For the concession spaces included in Phase II, the Lease will be awarded in accordance with AVN RCS 23-005.
Q4	Any chance to see data how much PAX is served by these gates?
Answer	Available information regarding the Airport’s passenger traffic is available on the link https://www.skyharbor.com/about/Information .

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Q5	As a ACDBE do I have to enter a joint venture or get a contract on my own.
Answer	An ACDBE or small business firm may either enter a joint venture to submit a response or submit a response on its own. Each Respondent must meet the minimum qualifications, or the Response will be rejected as non-responsive. Respondents who do not meet the minimum qualifications are encouraged to joint venture partner or sublease with more established firm(s). See Section I (C).
Q6	Who are the primes?
Answer	See Answer 3.
Q7	What is you email so I can get the information for the prime.
Answer	All questions about this RCS, including the draft Lease, must be submitted in writing no later than the question deadline listed on page 1 to avn.solicitations@phoenix.gov . See Section I (K).
Q8	What is the average rent and/or utilities to be paid?
Answer	For the Initial Term, the Successful Respondent will pay only a Percentage Rent of annual Gross Sales. See Section II (E). For the Primary Term and through each Lease Year of the Primary Term, the Successful Respondent must pay Minimum Annual Guaranteed (MAG) or Percentage Rent, whichever is greater. See Section II (D). All charges relating to utility service usage vary by Premise.
Q9	Is there a percentage of the commission that is expected to be paid?
Answer	Throughout the term of the Lease, the Successful Respondent must pay MAG or Percentage Rent derived from gross sales, whichever is greater. See Section II (D).
Q10	Is priority given to the Randolph Sheppard Act?
Answer	No, there is no priority given to the Randolph Sheppard Act.
Q11	Is there any possibility of a duty-free shop to be set up?
Answer	No, there is no opportunity for a duty-free shop in the T4S1 concourse. There is currently a concessionaire contracted until 11/30/2030.
Q12	For electronic submissions, show the Labor Organization statement be as a separate file seeing as it is required to be separate as part of a hard copy submission?
Answer	Yes, the Statement Regarding Any Agreements with Labor Organizations should be submitted in a separate file. See Section III (I).
Q13	Can a prime from phase 1 be a subtenant in phase 2?
Answer	Yes, a prime from Phase I can be a subtenant in Phase II. The Successful Respondent and Partners resulting from Phase I cannot be awarded the Lease for Phase II. See the first paragraph in Section I. See Section I (R) for the definition of "Partner."
Q14	Can a Successful Respondent from T4S1 Phase I be awarded in Phase II if that Successful Respondent from Phase I is a subtenant in Phase II?
Answer	See Answer 13.

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Q15	Where does Exhibit 19 get placed in the proposal (if anywhere) or is it solely submitted as an Excel file?
Answer	Exhibit 19 may be organized in Tab 2 – Proposed Concept and Menus for Each Concession Space. This document must be submitted in the original excel form.
Q16	Under Tab 6, it states: <i>TAB 6 – PROPOSED BUSINESS PLAN</i> • <i>Documentation of Respondent's, and Respondent's subtenant and/or joint venture partners' if any, financial capability to fund internally and/or finance proposed Capital Investment such as audited financial statements and/or letters of intent from financial institutions.</i> Question: Does this mean that EITHER audited financial statements or letters of intent from financial institutions can be submitted, or do both need to be submitted?
Answer	Per Section III, (D), Tab 6, The Respondent must submit audited financial statement or letters of intent from financial institutions. Respondents may also submit both if necessary, for their response.
Q17	Do any/all business entities (i.e. a proposing LLC, a proposing Joint Venture, or a Joint Venture subtenant) need to be formed prior to submittal, or can they be formed upon award? *There are costs to forming entities that are not awarded, as well as tax returns required, and the City's consideration to allow proposers to form the entities following award would be greatly appreciated, thank you.
Answer	Yes, entities must be formed prior to submitting their Response. Refer to Exhibit 14 - Affidavit. If a Respondent is deemed the successful Respondent for award, the signatory on the Affidavit will be the legal entity documented to receive the award.
Q18	Is there a page limit associated with design/material pages or design renderings?
Answer	No, per Section III, (E), table of contents, tab cover sheets, the design renderings nor material boards will be counted towards the page limit.
Q19	RFP requires an 11x17 foldout of a material board. Please confirm only a digital material board is required if the full proposal is being submitted electronically
Answer	Yes, the Respondent will meet the requirement by submitting the 11 X 17 material board electronically.
Q20	Can signage be moving/scrolling for an interactive feature or does main signage need to be stagnant?
Answer	Please refer to page 32 of the Tenant Design Criteria (TDC) for additional information regarding video monitors. All signage must be preapproved by the Airport.

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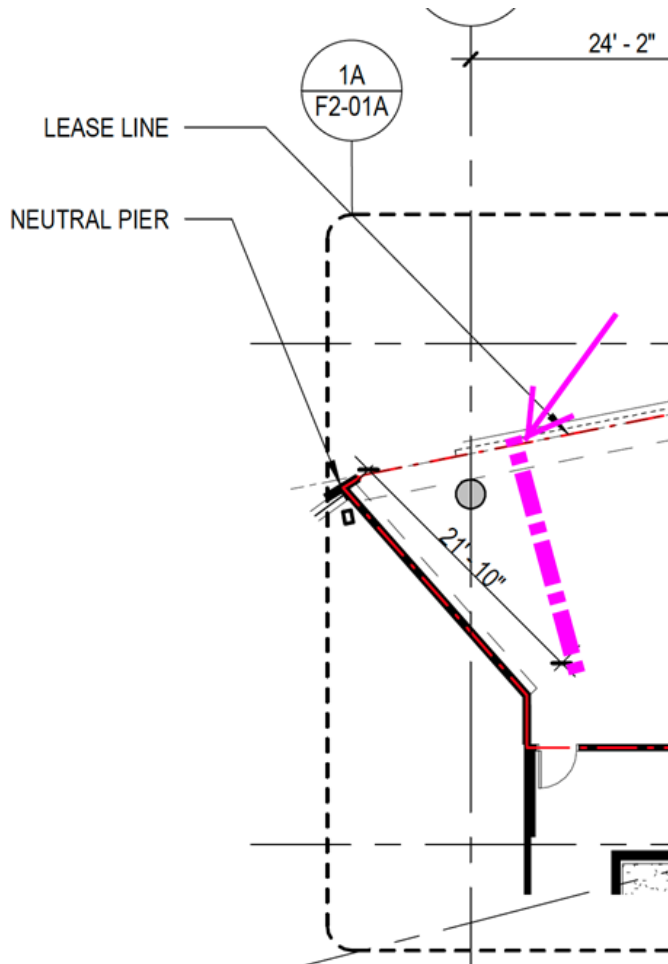
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Q21

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- Can main storefront signage be located 6" inside of lease line to align with construction or is it required to be at lease line?
- RFP requires tenant framing to start 6" back from lease line - does that include the required railing?
- We understand that construction cannot impose on Landlord owned areas, please advise if exit gates swing out past the lease line if they are provided with closers and/or 180 degree hinges so they don't remain open in path of travel
- Is the BOH access door able to shift anywhere along the BOH corridor wall or does it need to remain where it is located in the RFP plan?
- If the design proposed to build a BOH partition within the west lease line, would that wall now be able to be considered our feature/signage wall or does the provided wall need to remain open for signage/graphics? See attached



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Answer	<ul style="list-style-type: none">• Tenants are encouraged to locate primary signage at the lease line, but 6” within the lease line is acceptable to achieve alignment with other design elements.• No, a railing may be built at the lease line as long as the outside face of the railing is fully within in the Tenant spaces that serve alcohol. A railing must be provided at the lease line and railing must be transparent, glass is strongly recommended. Refer to page 16 of the Tenant Design Criteria (TDC).• No, public circulation paths are not to be obstructed with Tenant signage, branding, or design elements. Even a gate temporarily swinging into the public circulation corridor could create a hazard for passengers.• The Tenant may propose moving the door to the Back of House (BOH) corridor however the Tenant's Architect must consider encroachment of the door into the code required minimum egress width. According to the International Building Code (IBC), a door may not reduce the required egress width by more than one-half at any point during the door's swing. Refer to the S1 concourse life safety plans for additional information.• It would be acceptable to consider the new wall in front of the column the feature wall opportunity/vertical signage location. All additional signage criteria would still be applicable. Proposed new signage wall would be subject to final approval during review of final drawings.
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Q22	RCS Section I(G), Page 10 and Draft Lease Section 1.2 (Primary Term) Would the City consider adding the possibility of option years at the sole discretion of the Airport Authority? This would provide the Airport Authority with flexibility to account for unforeseen circumstances over the Term of the Lease.
Answer	No, options are considered as outlined in the RCS and Lease. Please refer to Section I, (G).
Q23	RCS Section I(I)2, Page 11-12 and Draft Lease Section 11.3 (Performance Guarantee) Would the City consider allowing a Surety Bond, commonly permitted in airport leases industry-wide, as an alternative form of security? A bond is oftentimes more economical and provides operators and small businesses additional flexibility while still protecting the financial interests of the City.
Answer	The City will only accept a Performance Guarantee in the form of a Letter of Credit (LOC) or a Cash Deposit in the amount of six (6) months' Minimum Annual Guarantee (MAG) rent. Please see Section I (I) 2.
Q24	RCS Section I(I)2, Page 11-12 and Draft Lease Section 11.3 (Performance Guarantee) Is the potential increase in the performance guarantee amount limited to the equivalent of six-months' MAG (as of the date of the increase) or is it the intent that the City could increase the performance guarantee to any amount, in their sole discretion, that it deems reasonable? The former will provide reasonable certainty of the amount whereas the latter does not and may be very difficult for small businesses and other operators to comply.
Answer	As outlined in the RCS and Lease, the City can increase the Performance Guarantee from time to time so that it is equal to or greater than six months of MAG paid to the City then in effect. The City will assure this is reasonable and necessary according to the specific circumstances. Please see Section I(I)2, which includes examples when Performance Guarantee might be subject to increase.

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Q25	RCS Section I(O), Page 15 and Draft Lease Section 2.2.15 (Exclusive Beverage Pouring Rights contracts) This type of agreement limits competition, reduces product choice for the travelling public, forces changes to brand menus that may be inconsistent with street-side operations, and would require operators and their small business partners to implement and participate in a program that will likely increase costs and decrease sales. The possible effects of such agreements seem to conflict with the RCS goals of which expressly encourage competition, the optimization of sales and revenue, unique and varied national, regional and local food and beverage experiences for customers, and increased opportunities for small businesses. If the City implements any such agreements: (1) Would the City consider some type of rental offset to protect operators? (2) If no offset is provided, what would the estimated additional costs to operators be so they are able to properly model these expenses?
Answer	The City intends to include the following provisions of RCS Section I (O), (including the related Lease provision) which provides: The City may enter into an exclusive beverage pouring rights partnership and subsequent contract. City reserves the exclusive right to solicit and enter into product advertising and sponsorship agreements for the display and sale of non-alcoholic beverages including but not limited to carbonated drinks, sports drinks, juices and bottled water for the display and sale at the Airport. The Successful Respondent agrees to cooperate and assist the City, as necessary, in the implementation of such exclusive agreements. (1) The City will provide no rental offset for pouring right changes. (2) It is up to each Respondent to determine such additional costs and expenses, if any, in its proposal.
Q26	RCS Section I(P), Page 15 and Draft Lease Section 2.2.14 (CRDC) Based on other airports where CRDC's currently exist, this requirement would significantly increase the cost to operate at PHX. If the City develops, constructs, and operates a CRDC: (1) Would the City consider some type of rental offset to protect operators? (2) If no offset is provided, what would the estimated additional costs to operators be so they are able to properly model these expenses? (3) Would the capital investment costs of building a CRDC be included in, or excluded from, the costs operators are responsible for?
Answer	The City reserves the right to develop, construct, and operate a Consolidated Receiving and Distribution Center (CRDC) during the term of the lease. If the CDRC is developed, the Successful Respondent and Partners and all the Successful Respondents' will be required to utilize this facility. (1) See Answer to 25(1). (2) See Answer to 25(2). (3) If developed, the Successful Respondents will be notified of any costs associated with the CRDC that will be charged to them. See Section I(P).

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Q27	RCS Section II(C), Page 18 and Draft Lease Section 4.1.13, 3rd Bullet Point (Third-Party Delivery) Based on other airports which have implemented these types of programs, they are a convenience for a limited number of passengers and have not proven to be of any economic benefit to operators. If the City requires participation in a third-party delivery program: (1) Would the City consider some type of rental offset to protect operators? (2) If no offset is provided, what would the estimated additional costs to operators be so they are able to properly model these expenses?
Answer	No, the intention is to enhance the customer experience through a third-party delivery program. At this time, the City does not intend to provide any rental offset as indicated in Answer to 25(1).
Q28	RCS Section II(D), Page 21 and Draft Lease Section 3.3.3(b) (MAG) Given that it is now known a pandemic can reduce air traffic and sales to very low levels, and that operators cannot pay MAG if there are little or no sales, would the City consider some form of enplanement trigger to reduce MAG if another pandemic or similar event would occur in the future?
Answer	The City will not make any changes at this time. Any need to address such circumstances will be addressed based on the specific circumstances.
Q29	RCS Section II(D), Page 21 and Draft Lease Section 3.3.4 (MAG) Please confirm if MAG will be calculated in total for both locations, or separately by space. If it will be calculated separately, what is the underlying rationale for that approach?
Answer	MAG, for both leases, for the first full Lease Year will be in the amount of the Successful Respondent's Proposed First Year MAG per Exhibit 10 or Percentage Rent of gross sales, whichever is greater. MAG for the second year and all years thereafter will be established at 85% of the annual rent (for both concession spaces) owed by the Successful Respondent in the preceding year or 100% of MAG for the first Lease Year, whichever is greater.
Q30	RCS Section II(F), Page 23 and Draft Lease Section 5.1.6 (Midterm Capital Investment) Would the City consider allowing the mid-term investments to commence in year 5 of the Primary Term of the Lease rather than conclude by year 5 of the Primary Term of the Lease?
Answer	No. Midterm refurbishment must be complete within five (5) years of the Primary Term of the Lease. Please see Section II(F).
Q31	RCS Section II(I), Page 26 and Draft Lease Section 4.1.15 (Hours of Operation) Would the City consider eliminating the requirement to stay open thirty minutes after the final departure from T4 and replace it with the requirement to stay open thirty minutes after the last flight departs from Concourse S1? If, for example, the last flight in S1 departs at 7:00 PM but the last flight in S4 departs at 11:00 PM, it will be difficult financially for a concession located in S1 to stay open for several hours with potentially no sales, and this may also affect the retention of tipped employees who may seek employment elsewhere.
Answer	No. The Hours of Operation are established by the City based on airline schedules and the traveling public. The City reserves the right to amend the Hours of Operations during the term of the Lease. If Hours of Operations are amended, the Successful Respondent will be required to comply with the amended Hours of Operation.

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Q32	RCS Section VI, Exhibit S, Section 2.12, Page 71 and Draft Lease Exhibit 9, Section 2.12 (Premises Standards) Would the City consider allowing music in a restaurant if the street-side location also plays music?
Answer	No. Music shall not be played from the F&B concession unit. See Exhibit 9 - Food and Beverage / Retail Operating and Service Standards Manual.
Q33	Draft Lease Section 4.1.11 (Tipping) Please clarify, does the prohibition on “tipping” language on printed sales and credit card receipts mean operators can’t add the option for a customer to leave a tip on their credit card receipt? If so, how does a credit card paying customer compensate an employee for superior service?
Answer	No, there is a line on the receipt for the customer to add a tip amount, but the City will not allow the operator to print suggested amounts on the receipt.
Q34	Draft Lease Section 25.2(D) (Equal Pay and Non-Discrimination Information and Data) Please clarify, what information and data will an operator have to provide to demonstrate its compliance with the equal pay commitment and non-discrimination requirements?
Answer	See Section III(D), Tab 4. Respondents must provide a narrative describing programs to include proposed communication to employees of the Equal Pay Act and method to monitor compliance with the Act. In addition, Respondents are required to sign Exhibit 6 – Letter of Declaration.
Q35	Draft Lease Exhibit 14 (Sustainability Summary) Please provide the content of this exhibit for review.
Answer	Please see Section III, (D), Tab 4. The Respondent should provide a Sustainability Summary detailing its vision, commitment, and practices in promoting environmental sustainability and environmental conservation. Exhibit 14 in the Draft Lease is a placeholder for the Respondent’s Sustainability Summary.
Q36	<i>If an ACDBE or subtenant partner that is being considered to be included in our Phase II proposal participated in the Phase 1 RCS and was awarded a location, is that entity still allowed to participate as a subtenant in the role of ACDBE?</i>
Answer	Yes, See Answer 13.
Q37	If a prime has subtenants do the subtenants also need to submit a response to this question from page 39 of the RCS: <i>Do you currently have an agreement in place that would prohibit a labor organization from engaging in a strike, picketing or conducting other economic actions at the proposed concession operation? If yes, please list the labor organization(s) and the date the agreement was executed.</i>
Answer	No, only the Respondent must complete the labor organization form. See Section III (I).

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Q38	Please list the forms required for a subtenant to complete.
Answer	See Exhibit 23.
Q39	Please list the forms required for a JV partner to complete (if different from above).
Answer	See Exhibit 23.
Q40	Do the subtenants need to provide a Bank's Letter of Commitment or only the prime (majority partner of the respondent)?
Answer	Only the Respondent is required to provide a Bank's Letter of Commitment. See Section III (D) Tab 1.
Q41	Do the subtenants need to provide the following: <i>Evidence of ability to obtain required insurance coverages, such as a commitment letter from an underwriter or a current certificate of insurance showing comparable insurance limits, confirming that the Respondent is insurable for the required coverages at the required limits as defined in Exhibit 17. The City reserves the sole right to determine if the Respondent will meet the required insurance limits as defined in this solicitation.</i>
Answer	In the Response, only the Respondent is required to provide evidence of ability to obtain required insurance coverages. See Section III (D) Tab 1.
Q42	Please confirm that the Bank Letters of Commitment and the Evidence of Insurance Requirements do not count against the page limits. The attachments from the insurer are sometimes multiple pages.
Answer	Bank Letters of Commitment and the Evidence of Insurance Requirements will not count against the page limits. See Section III (E).
Q43	Please confirm that electronic tabs used to divide the sections will not count against the page limits.
Answer	See Answer 18.

In the event of any conflicts with the earlier answers or addenda, the final written answers and final addendum shall control.