



CITY OF PHOENIX

AVIATION DEPARTMENT

**Nichol Shrum
Procurement Officer
2485 East Buckeye Road
Phoenix, AZ 85034
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INVITATION FOR BID

AVN IFB 23-031 (NS)

Airport Towing and Minor Auto Assistance



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SOLICITATION RESPONSE CHECK LIST

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Please read before continuing to the offer document. This list may not include every requirement; the purpose is to assist vendors, but vendors are expected to read and comply with the entire solicitation.

SOLICITATION RESPONSE CHECK LIST

Check off each of the following as the necessary action is completed.

- All forms have been completed and signed, including Solicitation Disclosure form.
- All Submittals are included.
- Reviewed and verified prices offered.
- Checked price extensions and totals.
- Included any required drawings or descriptive literature.
- If required, checked and included the amount of the offer surety.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included the specified number of copies of the offer as indicated in Submittal section.
- Included signed addenda, if any.
- If physical submission is selected:
 - Include the specified number of copies of the offer as indicated in Submittal section.
 - Mailing envelope is addressed to the Procurement Officer on the solicitation front page, at the address listed.
 - Mailing envelope clearly shows your company name and address, the solicitation number, solicitation title and the offer opening date.
- Submitted the response in time – City must receive offers no later than the date and time indicated in the Schedule of Events or addenda.



SECTION I – INSTRUCTIONS

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SECTION I - INSTRUCTIONS

1. DESCRIPTION:

- 1.1. The City of Phoenix Aviation Department (“City”, “Aviation”) invites sealed offers from qualified vendors to provide towing and minor auto assistance at Phoenix Sky Harbor International Airport (PHX) for a five-period commencing on or about December 1, 2023, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by the City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.
- 1.2. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.3. Notwithstanding the foregoing, this Contract will terminate upon the earliest of the following occurrence: reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Contract.

2. CITY’S VENDOR SELF-REGISTRATION AND NOTIFICATION:

Offeror must be registered in the City’s procurePHX Self-Registration System at <https://www.phoenix.gov/financesite/Pages/EProc-help.aspx> to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from an Offeror who has not registered. The product category code for this solicitation is 968900000 (Vehicle Towing and Storage).

3. SCHEDULE OF EVENTS:

ACTIVITY	DATE (All times are local Phoenix time)	Location
Solicitation Issue Date	Tuesday, May 2, 2023	City Solicitation Website
Pre-Offer Conference	Tuesday, May 9, 2023 at 1:00 p.m.	Meeting Link https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=mf9e2fc2d65877f85fd9496c503b01f6b Join by phone +1-415-655-0001 US Toll Access code: 246 623 54031
Written Inquiries Due Date	Tuesday, May 16, 2023 by 10:00 a.m.	nichol.shrum@phoenix.gov AND avn.solicitations@phoenix.gov



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Offer Due Date	Tuesday, June 13, 2023 by 10:00 a.m.	<i>Physical Submission:</i> Aviation Headquarters Building 2485 East Buckeye Rd, Phoenix, Arizona 85034 OR <i>Electronic Submission</i> refer to Paragraph 14 in this Section.
Offer Opening	Tuesday, June 13, 2023 by 10:15 a.m.	Meeting Link https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m76999e1e5ed2bb520bee59778a02c53a Join by phone +1-415-655-0001 US Toll Access code: 2452 791 8783

The City reserves the right to change dates, times, and locations, as necessary. The City does not always hold a pre-offer conference or site visit.

To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer (Nichol Shrum) at 602-273-4082 Voice or 711/TTY, or nichol.shrum@phoenix.gov, no later than 72 hours prior to the meeting.

4. MINIMUM QUALIFICATIONS:

The qualified and responsive bidder must meet **all** minimum qualifications listed below. Should an Offeror fail to meet one of the minimum qualifications identified, the offer will be disqualified as non-responsive.

4.1. Offeror must have a minimum of five (5) consecutive years of experience within the last ten (10) years providing towing services and minor auto assistance to an entity or entities that operate twenty-four (24) hours a day, seven (7) days a week. The minor auto assistance includes but not limited to battery boost, flat tire assistance, fuel delivery and lockout service.

4.2. Under this Contract the Offeror’s fleet must be, at a minimum, a 2018 or newer model. All Offerors must submit their vehicle information per Section VI, paragraph 6. Failure of submitting such required information will be deemed non-responsive and the bid will be rejected.



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5. OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Internet access is available at all public libraries. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix Aviation Department, Contracts & Services Division, 2485 East Buckeye Road, Phoenix, AZ 85034. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their offer.

6. PREPARATION OF OFFER:

Submittals shall be received on or before the Offer due date and time specified above in Section 3, Schedule of Events.

- 6.1.** All forms provided in Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.
- 6.2.** It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror's errors or omissions.
- 6.3.** All time periods stated as a number of days will be calendar days.
- 6.4.** It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:
 - 6.4.1.** Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 6.4.2.** Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
 - 6.4.3.** Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
 - 6.4.4.** The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs



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incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

- 6.4.5.** Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 6.4.6.** Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products offered. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- 6.4.7.** Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.

7. EXCEPTIONS:

Offeror must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Offerors must conform to all the requirements specified in the solicitation. The City encourages Offerors to send inquiries to the procurement officer rather than including exceptions in their Offer. See Inquiries and Schedule of Events.

8. INQUIRIES:

All questions that arise relating to this solicitation should be directed via email to the Procurement Officer and must be received by the due date indicated in the Schedule of Events. The City will not consider questions received after the deadline.

No informal contact initiated by Offerors on the proposed service will be allowed with members of City's staff from date of distribution of this solicitation until after the resulting contract(s) are awarded or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation. All questions concerning or issues related to this solicitation must be presented **in writing**.



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The Procurement Officer will answer written inquiries in an addendum and publish any addendums on the Procurement Website.

9. ADDENDA:

The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix regarding this solicitation. Any changes will be in the form of an addendum. **The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal. Failure to acknowledge receipt and returning signed addenda may result in the rejection of Offer as non-responsive.**

10. BUSINESS IN ARIZONA:

The City will not enter contracts with Offerors (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of Arizona by the Arizona Corporation Commission, unless the offeror asserts a statutory exception prior to entering a contract with the City.

11. LICENSES:

If required by law for the operation of the business or work related to this Offer, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

12. CERTIFICATION:

By signature in the offer section of the Offer and Acceptance page(s), Offeror certifies:

- The submission of the offer did not involve collusion or other anti-competitive practices.
- The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

13. SUBMISSION OF OFFER – HARD COPY SUBMISSION:

Offers must be in possession of the Aviation Department on or prior to the exact time and date indicated in the Schedule of Events. Late offers will not be considered. The prevailing clock will be the City Aviation City Department's clock.

Offers must be submitted in a sealed envelope and the following information should be noted on the outside of the envelope:

13.4. Offeror's Name

13.5. Offeror's Address (as shown on the Certification Page)



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- 13.6. Solicitation Number
- 13.7. Solicitation Title
- 13.8. Offer Opening Date

All offers must be completed in ink or typewritten. Unless submitted electronically Include the number of copies that are required as indicated in the Submittal section.

For “In-Person” and “via Carrier (i.e. USPS, FedEx, UPS, etc.)” Delivery: Offers will be received at the Aviation Headquarters Building located at 2485 East Buckeye Road, Phoenix AZ 85034 in the LOBBY during normal business hours (8:00 am – 5:00 pm Local Phoenix, AZ Time). Offer should be clearly identified outside of the package as designated above.

If you are using a third-party shipping company (USPS, FedEx, UPS, etc.) to submit via Carrier delivery, please make sure to confirm with the third-party delivery service provider that the delivery will not be affected by changes resulting from COVID-19. The Offeror is responsible for managing potential delays due to COVID-19. The City does not make exceptions for delays caused by the Carrier. It is Offeror’s responsibility to ensure that the Offer is timely submitted.

14. **SUBMISSION OF OFFER – ELECTRONIC BID SUBMISSION:**

The City of Phoenix Aviation Department is accepting electronic Offers for this solicitation, in addition to other methods of submitting sealed offer packages (hard copies). Offerors are responsible for submitting the electronic offer on or before the Solicitation Deadline.

For “Electronic” Submittal: Offers must be submitted via email to avn.solicitations@phoenix.gov AND nichol.shrum@phoenix.gov. Due to file size limitations of 100mb for electronic transmission (for sending or receiving), offers sent by email may need to be sent in parts with multiple emails. The date and time on the email(s) as received/stamped by the City’s inbox will provide proof of submission and verification whether the Offer (including all parts if sent in multiple emails) was received on or prior to the Solicitation Deadline. The solicitation number and title “**AVN IFB 23-031 Airport Towing and Minor Auto Assistance** must be included on the subject line of the email when submitting your Offer.

Offeror may submit electronic signatures on documents that do not require notarization. Please ensure that electronically signed documents are submitted in separate pdf files. The City does not accept electronic signatures for notarized documents, including bonds, guaranties, powers of attorney or affidavits. These documents must be submitted in paper form (hard copy) with original or “wet-signatures” at time of the Solicitation Deadline and submission must comply with the requirements in Paragraph 13.

It is the responsibility of the Offeror to ensure that the Offer is timely, including



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confirming that there are no technical reasons that any Offer submitted electronically may be delayed

15. WITHDRAWAL OF OFFER:

At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative.

16. OFFER RESULTS:

The bid openings will take place on their designated date and time indicated in the Schedule of Events, through remote video and telephone conference with the link and dial-in phone number below:

Meeting Link

<https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m76999e1e5ed2bb520bee59778a02c53a>

Join by phone

+1-415-655-0001 US Toll

Access code: 2452 791 8783

The name of each Offeror, and the price may be read and/or viewed. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post a preliminary offer tabulation on the City's website: <https://solicitations.phoenix.gov/Awards>, within five calendar days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has reviewed the offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.

17. PRE-AWARD QUALIFICATIONS:

17.1. Upon notification of an award the Offeror will have thirty (30) calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

18. AWARD OF CONTRACT:

18.1. Unless otherwise indicated, award(s) will be made to the **lowest total in paragraph 5, Bid Price Schedule in Section VI, Submittals**, and the most responsive, responsible Offeror(s) who are regularly established in the service, or



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providing the goods, contained in this solicitation and who have demonstrated the ability to perform in an acceptable manner.

18.2. Factors that may be considered by the City include:

18.3. Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,

18.4. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,

18.5. Safety record, including complaints or investigations; and,

18.6. Offeror history of complaints, and termination for convenience or cause, litigation or lawsuits.

18.7. Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

18.8. A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Deputy Aviation Director or Department Director. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

19. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:

The City reserves the right to disqualify any Offeror based on any real or apparent conflict of interest that is disclosed by the offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before any agency or body, including but not limited to, the City Council of the City of Phoenix or any court.

20. SOLICITATION TRANSPARENCY POLICY:

20.1. Commencing on the date and time a solicitation is published, potential or actual offerors or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until the resulting contract(s) are awarded to all offers or responses are



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rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation

- 20.2. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff.
- 20.3. Offerors may discuss their proposal or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.
- 20.4. With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.
- 20.5. This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 20.6. "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers, or responses are rejected, and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

21. PROTEST PROCESS:

- 21.1. Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an addendum to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines



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that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.

- 21.2.** Therefore, unless otherwise notified by a formal addendum, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 21.3.** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.
- 21.4.** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City's website to award the contract(s) to an Offeror(s). Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City's full and final discretion.
- 21.5.** All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:
 - 21.5.1.** Identification of the solicitation number;
 - 21.5.2.** The name, address and telephone number of the protester;
 - 21.5.3.** A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
 - 21.5.4.** The form of relief requested; and
 - 21.5.5.** The signature of the protester or its authorized representative.
- 21.6.** The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43) and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

22. PUBLIC RECORD:

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process,



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information marked as “confidential” will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked “confidential.” The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

23. LATE OFFERS:

Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being late.

24. RIGHT TO DISQUALIFY:

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

25. CONTRACT AWARD:

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award.

26. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

26.1. Offers will be reviewed for documentation of any required qualifications, and completeness and compliance with the solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

26.2. Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers will render an Offer nonresponsive.



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26.3. Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the Offeror, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible Offeror. Responsibility includes the Offeror's integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

27. EQUAL LOW OFFER:

Contract award will be made by putting the names of the tied vendors in a cup for a blind drawing limited to those bidders with tied offers. If time permits, the offerors involved will be given an opportunity to attend the drawing. The drawing will be witnessed by at least three persons, and the contract file will contain the names and addresses of the witnesses.



SECTION II – STANDARD TERMS AND CONDITIONS

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SECTION II – STANDARD TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of Offer as non-responsive.

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

May: Indicates something that is not mandatory but permissible.

For purposes of this solicitation, the following definitions will apply:

"A.R.S."	Arizona Revised Statute
"Buyer" or "Procurement Officer"	City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.
"City"	The City of Phoenix
"Contractor"	The individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.
"Contract" or "Agreement"	The legal agreement executed between the City of Phoenix, AZ and the Contractor.
"Days"	Day or days means calendar days unless otherwise specified.



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“Deputy Aviation Director”	The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.
“Employer”	Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
Good Cause	Substantial grounds or evidence based upon facts not in dispute as determined by the Procurement Officer that the failure by an aggrieved party, an offeror or a respondent to submit a timely offer, response, protest or appeal was beyond its control due to misinformation relayed in writing by a City employee.
“Offer”	Means a response from a supplier, contractor or service provider to a solicitation request that, if awarded, binds the supplier, contractor or service provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.
“Offeror”	Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
“Solicitation”	Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed bids, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, bids or quotes from suppliers.
“Suppliers”	Firms, entities or individuals furnishing goods or services to the City.
“Vendor or Seller”	A seller of goods or services.



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2. CONTRACT INTERPRETATION:

- 2.1. APPLICABLE LAW:** This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.
- 2.2. CONTRACT ORDER OF PRECEDENCE:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:
- 2.2.1.** Federal terms and conditions, if any
 - 2.2.2.** Special terms and conditions
 - 2.2.3.** Special terms and conditions
 - 2.2.4.** Standard terms and conditions
 - 2.2.5.** Amendments
 - 2.2.6.** Statement or scope of work
 - 2.2.7.** Specifications
 - 2.2.8.** Attachments
 - 2.2.9.** Submittals
 - 2.2.10.** Exhibits
 - 2.2.11.** Instructions to Contractors
 - 2.2.12.** Other documents referenced or included in the Solicitation
- 2.3. ORGANIZATION – EMPLOYMENT DISCLAIMER:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.
- 2.4. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.
- 2.5. NON-WAIVER OF LIABILITY:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees



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that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.

- 2.6. PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

3. CONTRACT ADMINISTRATION AND OPERATION:

- 3.1. RECORDS:** All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

- 3.2. DISCRIMINATION PROHIBITED:** Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended.

Any contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.



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3.3. EQUAL EMPLOYMENT OPPORTUNITY AND PAY: In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

3.3.1. For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.

3.3.2. For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements or subleases of this Agreement entered into by supplier/lessee. The Contractor further



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agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

- 3.3.3. Documentation:** Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.
- 3.3.4. Monitoring:** The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.
- 3.4. LEGAL WORKER REQUIREMENTS:** The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:
- 3.4.1.** Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.
- 3.4.2.** A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- 3.4.3.** The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.
- 3.5. HEALTH, ENVIRONMENTAL AND SAFETY REQUIREMENTS:** The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- 3.5.1.** Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.



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- 3.5.2.** A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.
- 3.5.3.** The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).
- 3.6. COMPLIANCE WITH LAWS:** Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance. Because the contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor's acts. Contractor shall comply with the provisions of the **Supplemental Terms and Conditions to All Airport Agreements** attached, marked **Exhibit A**, and incorporated herein by this reference.
- Sensitive Security Information (SSI):** Contractor shall comply with the requirements 49 C.F.R. Parts 15 and 1520, prohibiting the unauthorized release of Sensitive Security Documents, which includes photographs and/or videos taken of secured areas of the airport. Upon the receipt or creation of any SSI documents, including photographs and/or videos taken of secured areas of the airport, Contractor shall be required to complete and submit the attached City of Phoenix Aviation Department Sensitive Security Information Acknowledgment Form, marked **Exhibit B** and incorporated herein by this reference. Information on the maintenance, safeguarding and disclosure of SSI is available at <https://www.tsa.gov/sites/default/files/ssi-best-practices-guide-for-non-dhs-employees.pdf>.
- 3.7. LAWFUL PRESENCE REQUIREMENT:** Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the



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prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies

- 3.8. CONTINUATION DURING DISPUTES:** Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.
- 3.9. EMERGENCY PURCHASES:** The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

4. COSTS AND PAYMENTS:

- 4.1. GENERAL:** Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.
- 4.2. PAYMENT DEDUCTION OFFSET PROVISION:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.
- 4.3. LATE SUBMISSION OF CLAIM BY CONTRACTOR:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.
- 4.4. DISCOUNTS:** Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
- 4.5. NO ADVANCE PAYMENTS:** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.
- 4.6. FUND APPROPRIATION CONTINGENCY:** The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor



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and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

4.7. MAXIMUM PRICES: The City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies, by signing this Offer that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Offer and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

4.8. F.O.B. POINT: All prices are to be quoted F.O.B. delivered, unless specified elsewhere in this solicitation.

5. CONTRACT CHANGES:

5.1. CONTRACT AMENDMENTS: Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

5.2. ASSIGNMENT - DELEGATION: No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

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

6. RISK OF LOSS AND LIABILITY:



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- 6.1. TITLE AND RISK OF LOSS:** The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.
- 6.2. ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.
- 6.3. FORCE MAJEURE:** Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition. If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.
- 6.4. LOSS OF MATERIALS:** The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.
- 6.5. CONTRACT PERFORMANCE:** Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.



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The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

- 6.6. DAMAGE TO CITY PROPERTY:** Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

7. CITY'S CONTRACTUAL RIGHTS:

- 7.1.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.
- 7.2. NON-EXCLUSIVE REMEDIES:** The rights and remedies of the City under this Contract are non-exclusive.
- 7.3. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- 7.4. ON TIME DELIVERY:** Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.
- 7.5. DEFAULT:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.



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7.6. COVENANT AGAINST CONTINGENT FEES: Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

7.7. COST JUSTIFICATION: In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.

7.8. WORK PRODUCT, EQUIPMENT AND MATERIALS: All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

8. CONTRACT TERMINATION:

8.1. GRATUITIES: The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

8.2. CONDITIONS AND CAUSES FOR TERMINATION:

8.2.1. This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an



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acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

8.2.2. The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

8.3. CONTRACT CANCELLATION: All parties acknowledge that this contract is subject to cancellation by the City of Phoenix pursuant to the provision of Section 38-511, Arizona Revised Statutes.

9. STATE AND LOCAL TRANSACTION PRIVILEGE TAXES:

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the vendor that is conducting business in Arizona and the City of Phoenix. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. You may also find information at <https://www.phoenix.gov/finance/plt> or <https://www.azdor.gov/Business.aspx>. Once your offer is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If



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the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

10. TAX INDEMNIFICATION:

Contractor will pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor and require the same of all subcontractors. Contractor will hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

11. TAX RESPONSIBILITY QUALIFICATION:

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of Arizona for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in Arizona statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the Arizona State Department of Revenue to release tax information relative to Arizona Transaction Privilege Taxes or Arizona Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

12. NO ISRAEL BOYCOTT:

By entering into this contract, the Contractor certifies that they are not currently engaged in and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel.

13. ATTORNEY FEES:

In any contested action related to or arising out of this Contract, the prevailing party shall recover its attorney fees, court costs, and other expenses from the other party. Where there are no competing claims, "prevailing party" means the party that substantially obtained the relief sought. Where there are competing claims, the prevailing party is the net winner or the party who prevailed in a totality of the litigation.

14. HEADINGS:

Headings for articles, sections, and paragraphs are for reference only and do not limit the content or scope of any provision of this Contract.



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15. NATIONAL EMERGENCY:

This Contract is subject to the right of the United States to control, operate, and regulate the Airport and to use of the Airport during the time of war or national emergency.

16. NO IMPAIRMENT OF TITLE:

The Contractor and its agents, employees, and contractors shall not cause or allow any person or entity to cause any lien, cloud, charge, or encumbrance to be filed, recorded, or imposed on the Airports or any portion thereof.

17. NO PERSONAL LIABILITY:

The City's officers, officials, agents, and employees are not personally liable to the Contractor for any default or breach of this Contract by the City, are not liable for any amount that may become due to the Contractor and are not obligated to perform under any provision of this Contract.

18. SUCCESSORS AND ASSIGNS:

This Contract binds the parties and their owners, officers, directors, managers, members, agents, employees, representatives, trustees, executors, personal representatives, and successors.

19. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

This Contract is contingent on the appropriation of adequate funds by the Phoenix City Council for each fiscal year during the term of this Contract. If adequate funds are not appropriated, then this Contract shall terminate on June 30 of the last fiscal year for which funds were appropriated. The termination shall be without penalty or any liability by the City.

20. BREACH AND REMEDIES FOR BREACH:

The occurrence of any of the following events shall be deemed a material breach of this Contract by Contractor:

- Contractor fails to pay any amount when due and the failure continues for ten (10) days after notice from the City.
- Except for the non-monetary events of breach listed below, Contractor fails to perform any non-monetary obligation under this Contract and the failure continues for ten (10) days after notice from the City.
- Contractor fails to procure and maintain the insurance coverages required under this Contract and the failure continues for one (1) day after notice from the City.



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- Contractor breaches any other lease, contract, agreement, or permit it has with the City.
- Contractor files a voluntary petition in bankruptcy; is adjudicated bankrupt or insolvent; takes the benefit of any law applicable to bankrupt or insolvent debtors; files a petition or is seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief; seeks or acquiesces to the appointment of a trustee, receiver, or liquidator of all or a substantial part of Contractor's assets; or makes any general assignment for the benefit of creditors.
- Contractor violates any federal, state, or local law, rule, regulation, or ordinance related to this Contract and the violation continues for ten (10) days after notice from the City.

Upon the occurrence of any breach by Contractor, the City may elect to do any or all the following at one time or over a period of time:

- File a civil action or actions to, among other things, enforce this Contract and recover all amounts due, all attorney fees, court costs, and other expenses incurred.
- Exercise any and all remedies allowed at law or in equity.
- Recover all attorney fees, court costs, and other expenses incurred, whether or not a civil action or other judicial proceeding is filed.

The City's exercise of any remedy does not terminate and shall not be construed to terminate this Contract. Termination of this Contract must be evidenced by a writing signed by the City for that purpose. The foregoing list of remedies is not exhaustive, and the rights and remedies of the City under this Contract are non-exclusive.

21. CLAIMS AGAINST THE CITY:

Contractor shall comply with the procedures set forth in Chapter XVIII, § 14 of the Charter of the City of Phoenix (claims or demands against the City) and A.R.S. § 12-821 and § 12-821.01 (notice of claim statutes) for presenting claims or demands against the City. Nothing in this Contract constitutes a contractual term that requires a dispute resolution process, an administrative claims process, or review process, as those terms are used in A.R.S. § 12-821.01(C), so as to affect the date on which a cause of action accrues under A.R.S. § 12-821.01(A) and (B).



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22. DELINQUENT ACCOUNT FEE:

Any amount that is not paid by Contractor when due is deemed delinquent. If the delinquent amount remains unpaid for ten (10) days, then a delinquent account fee of eighteen percent (18%) per annum shall be assessed according to Phoenix City Code § 4-7. Delinquent account fees shall be computed and accrued on a daily basis and assessed until the account balance, including delinquent account fees, is paid in full. Delinquent account fees are due from Contractor upon demand by the City.

23. ENTIRE AGREEMENT:

This Contract constitutes the entire agreement between the parties and supersedes all prior written and oral agreements, understandings, discussions, proposals, negotiations, communications, representations, and correspondence related to this Contract. The parties are not bound by any obligation not provided for in this Contract. Contractor certifies that it was not induced to enter into this Contract by any misrepresentation, undue influence, or coercion by the City or any of its officers, officials, agents, or employees. The Exhibits attached to this Contract are material parts of this Contract and are incorporated herein by this reference.

24. FAIR INTERPRETATION:

Contractor agrees that the rule that ambiguous or vague language in a contract is construed against the drafter is waived and does not apply to this Contract. Contractor agrees that this Contract shall be interpreted fairly and not against the City simply because the City drafted this Contract.

25. NO THIRD-PARTY BENEFICIARIES:

Except as expressly provided in this Contract, nothing contained herein creates or may be construed to create any right or privilege in any person or entity that is not a party to this Contract.

26. NOTICE:

All notices, consents, approvals, and other communications (notices) between the City and Contractor that are required to be given under this Contract shall be in writing and given by (A) personal delivery, (B) email with return receipt requested (read receipt), (C) facsimile transmittal with delivery confirmation, (D) prepaid delivery to any commercial air courier or express delivery service, or (E) registered or certified mail, postage prepaid and return receipt requested, through the United States Postal Service.

Notices to the City shall be sent to:

City of Phoenix Aviation Department
Aviation Headquarters Building
ATTN: Contracts & Services Division



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Phoenix, AZ 85034

2485 East Buckeye Road
Phoenix, Arizona 85034
Facsimile: 602-273-2080

City of Phoenix Aviation Department
ATTN: Floyd Johnson – Operations Division
2485 East Buckeye Road
Phoenix, Arizona 85034
Facsimile: 602-273-2080

Notice to Contractor shall be sent to the person at the mailing address, email address, or fax number listed by Contractor in its Offer in Section VI – Submittals of this Contract. Notice given in compliance with this Section is deemed received (A) on the day it is personally delivered, (B) on the day it is sent by email, (C) on the day it is sent by facsimile transmittal, (D) two (2) days after it is deposited with any commercial air courier or express delivery service, or (E) five (5) days after it is sent by registered or certified mail as provided above. Any time period stated in a notice shall commence on the date the notice is deemed received. Actual receipt is not required.

If notice is sent by email or facsimile transmittal, then a paper copy shall be sent by prepaid regular first-class mail through the United States Postal Service to the Party at the address listed above. Duplicate notice is merely a courtesy and does not change or extend the effective date of the notice. The failure to receive the duplicate notice does not affect the validity of the notice sent by email or facsimile transmittal.

27. TITLE VI SOLICITATION NOTICE:

The City of Phoenix, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.



SECTION III - SPECIAL TERMS AND CONDITIONS

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1. **TERM OF CONTRACT:** This Contract will commence on or about **December 1, 2023** and will continue for a period of five (5) years thereafter.
2. **PRICE:** All prices submitted shall be firm and fixed for the initial one (1) year of the Contract. Thereafter, price increases will be considered annually provided the adjustments are submitted in writing with 30 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc.

Price decrease requests do not require supporting documentation and are allowed at any time during the Contract term.

The City will be the sole judge in determining the allowable increase amount. Price increases agreed to by any staff other than the Aviation Director are invalid. The Offeror acknowledges and agrees to repay all monies paid because of a requested price increase unless the increase was specifically approved, in writing, by the Aviation Director.

3. **METHOD OF ORDERING:**

Contractor shall deliver items and/or services only upon receipt of a written purchase order. All Offeror invoices and packing/delivery tickets must include the City of Phoenix purchase order number.

4. **METHOD OF INVOICING:**

Invoice must be emailed in .pdf format to invoices@phoenix.gov and **must** include the following:

- City purchase order number or shopping cart number
- Items listed individually by the written description and part number.
- Unit price, extended and totaled.
- Quantity ordered, back ordered, and shipped.
- Applicable tax
- Invoice number and date.
- Delivery address.
- Payment terms.
- Remit to address

5. **PERFORMANCE INTERFERENCE:**

Offeror shall notify the Aviation Department Representative's (ADR's) immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.



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ADR: Floyd Johnson – Operations Division
Phone: 602-273-2765
Email: floyd.johnson@phoenix.gov

ADR: Lea Cons – Business and Properties Division
Phone: 602-273-3336
Email: lea.cons@phoenix.gov

6. METHOD OF PAYMENT:

Offeror will be paid on a monthly basis in arrears.

7. DELIVERY/SERVICE TICKET:

Contractor shall provide a packing list or service ticket for items delivered to the City or services provided to the City. Tickets should include the following and a legible copy shall be provided to the City:

- Date
- City purchase order number
- Itemized list of materials which were delivered, including quantity
- A unique identification number and Contractor name
- Itemized list of costs of equipment shipping/freight for pass through costs
- Signature of City employee who accepted for the materials/services

8. PARTIAL PAYMENTS:

Partial payments are not authorized on individual purchase orders. Payment will be made upon final delivery and acceptance of all goods and services on the purchase order.

9. SUPPLIER PROFILE CHANGES:

It is the responsibility of the Contractor to promptly update their profile in procurePHX at www.phoenix.gov/procure. If Contractor's legal identify has changed, the Procurement Officer must be notified immediately. Failure to do so may result in non-payment of invoices and contract termination.

10. ESTIMATED QUANTITIES OR DOLLAR AMOUNTS (REQUIREMENTS CONTRACTS ONLY):

Quantities and dollar amounts 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 or appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirement for the contract period.



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11. AUTHORIZED CHANGES:

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within thirty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the Deputy Aviation Director or Department Director prior to the institution of the change.

12. SUSPENSIONS OF WORK:

The Procurement Officer and the ADR's reserve the right to suspend work wholly or in part if deemed necessary for the best interest of the City. This suspension will be without compensation to the Contractor, other than to adjust the contract completion/delivery requirements.

13. HOURS OF WORK:

All work under this contract shall be coordinated with the ADR's. Any changes to the established schedule must have prior written approval by the ADR's.

14. POST AWARD CONFERENCE:

A post-award conference will be held by the Procurement Officer or ADR's prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.

15. COOPERATIVE AGREEMENT:

In addition to the City and with approval of the Contractor, this contract may be extended for use by other municipalities and government agencies in the State of Arizona. A current listing of eligible entities may be found at www.mesaaz.gov/business/purchasing/save. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective entity. Orders placed by other agencies and payment thereof will be the sole responsibility of that entity. The City shall not be responsible for any disputes arising out of transactions made by other entities who utilize this solicitation responsible for any disputes arising out of transactions made by other entities who utilize this solicitation.

16. ADVERTISING:

Contractor will not advertise or publish news releases concerning this contract without the prior written consent of the Aviation Director, and the City will not unreasonably withhold permission.



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17. EXCLUSIVE POSSESSION:

All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the City of Phoenix and will not be used by the Contractor or any other person except with prior written permission by the City.

18. STRICT PERFORMANCE:

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

19. LICENSES AND PERMITS:

Contractor will keep current Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.

20. MISCELLANEOUS FEES:

Additional charges for fuel surcharges, delivery charges, dealer prep, environmental fees, waste disposal, shop supplies, set-up, freight and/or shipping and handling, etc. will not be paid. These costs must be incorporated in the pricing provided in the bid price schedule.

Labor rates (Shop and On-site) shall be charged as a flat hourly rate and are allowed only in performance of services under this agreement. Travel hours and other incidental fees will not be permitted under this agreement. Labor hours will be from “check-in” to “check-out” at the worksite.

21. COMMUNICATION IN ENGLISH:

It is mandatory that the Contractor’s lead person assigned to any City facility can speak, read, and write in English to effectively communicate with City staff.

22. CONTRACTOR ASSIGNMENTS:

Contractor hereby agrees that any of its employees who may be assigned to a City site to satisfy obligations under this contract shall be used exclusively for that purpose during the hours when they are working in areas covered by this contract and shall perform no work at other City facilities. If other services, in addition to or separate from, the services specified herein, may be deemed necessary by the Deputy Aviation Director or Department Director or his authorized representative, the Contractor may be requested to perform the additional or special service.



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23. TYPES OF WORK SUPERVISION:

Contractor shall provide onsite supervision and appropriate training to assure competent performance of the work. Contractor or authorized agent will make sufficient daily routine inspections to ensure the work is performed as required by this contract.

24. LIQUIDATED DAMAGES:

The following liquidated damages may be imposed by the City to the Offeror based on each observed violation committed by Offeror’s personnel:

ITEM NO.	ACTION	VIOLATION AMOUNT
1.	Driver sleeping on duty	\$200 per violation
2.	Failure to call in a towed vehicle to Police (after one hour)	\$200 per violation
3.	Failure to collect fee(s)	\$200 per violation
4.	Failure to have proper equipment including uniforms and badges	\$200 per violation
5.	Failure to increase the number of vehicles providing service by the designated time limit	\$200 per hour past the deadline
6.	Failure to meet the requirements of the parking card program	\$200 per violation
7.	Failure to remove or move a vehicle in the allotted time	\$200 per violation and \$200 per hour until vehicle is removed
8.	Failure to respond a call	\$200 per violation
9.	Failure to respond to a compliant within the allotted time limit	\$200 per violation and \$200 per hour until vehicle is removed
10.	Failure to submit proper documents to include tickets/receipts and required reports	\$200 per violation
11.	Failure to turn in voided tickets/receipts to ensure no numbers are missing	\$200 per violation
12.	Refuse to tow a vehicle	\$200 per violation



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13.	No service vehicle on Airport during the daily operating hours per Contract	\$200 per violation and \$200 per hour until service is restored
14.	Overcharging a customer and the customer has filed a complaint	\$200 per violation
15.	Failure to meet the 30 minutes' onsite response for after-hour calls	\$200 per violation and \$200 per hour until arrival
16.	Towing a vehicle without the approval of ADR or his/her designee	\$200 per violation
17.	Any other violation of the terms set forth in the Contract	\$200 per violation

Offeror agrees that a violation of any of the above will result in the City incurring damages that are impractical or impossible to determine. Offeror agrees that the above monetary assessments are a reasonable approximation of such damages.

Offeror will be notified by the City in writing of a violation and the Offeror will have ten (10) calendar days from the date of notifying of the violation to respond in writing. The City's notice must include a brief narrative apprising the Offeror of the time, place, and nature of the violation and will set forth those facts in the possession of the City substantiating the violation. Offeror's mailed response will be considered timely if post-marked within this ten (10) day period. Failure of Offeror to respond within this period will be deemed an admission that the violation occurred.

All sums payable by the Offeror under this section will be due and payable after a written decision upholding the violation has been mailed. All sums must be offset as a credit on a subsequent invoice.

25. PROCUREMENT REPORTS:

Offeror shall submit reports daily, weekly, and monthly per the ADR. Offeror will provide sample reports to be approved by the Aviation Department.

26. CLEANING:

Offeror shall keep the premises clean of all rubbish and debris generated by the work involved and shall leave the premises neat and clean. All surplus material, rubbish, and debris shall be disposed of by Offeror at their expense. The work area shall be cleaned at the end of each workday.



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All materials, tools, equipment, etc., shall be removed or safely stored. The City is not responsible for theft or damage to Offeror's property. All possible safety hazards to workers or the public shall be corrected immediately and left in a safe condition at the end of each workday. If there is a question in this area, ADR will be consulted.

27. BACKGROUND SCREENING – STANDARD RISK:

27.1. RISK-BASED BACKGROUND CHECK PROCESS

The City has established two levels of risk for Contract Worker background checks: standard risk and maximum risk. If the Scope of Work changes, the City may change the level of risk, which may require Contractor conduct additional investigations and incur additional costs in order to process a background check and obtain the required airport security badge. Contract Workers who receive a SIDA badge are exempt from a standard and maximum risk background check.

27.2. A STANDARD RISK BACKGROUND CHECK is required for all non-exempt Contract Workers performing work under this Contract.

As used in this Section, "background check" means the fact-gathering process described in City of Phoenix A.R. 4.45 that is conducted to obtain information regarding a Contract Worker's legal Arizona eligibility, criminal history, driving history, certifications, and other matters that may affect the Contract Worker's ability or fitness to perform work under this Contract.

27.2.1. Before any work is performed under this Contract, Contractor shall provide the City with a list of its Contract Workers.

27.2.2. If any dispute arises related to a background check process or criminal history check information, then Contractor and the affected Contract Worker will resolve the dispute. The City will not get involved in resolving any such dispute.

27.2.3. In making the determination whether information in a background check renders the Contract Worker disqualified, Contractor should be guided by the following principles and guidelines:

- A.** Disqualification should not be based solely on a criminal conviction, unless the conviction related to performance under this Contract.
- B.** Arrests that did not result in a conviction being entered or charges being filed may not be considered.



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- C.** Not all criminal convictions or other negative information obtained in a background check will disqualify a Contract Worker from working under this Contract.
 - D.** Contractor must evaluate the relevance of the information to the work the Contract Worker will perform under this Contract.
 - E.** Contractor must consider the following factors in determining whether negative background information disqualifies a Contract Worker.
 - Duties of the position
 - Time, nature, and number of negative events and convictions.
 - Attempts and extent of rehabilitation efforts.
 - The relation between the duties of the position and the nature of the crime committed.
- 27.2.4.** The analysis of whether any information in a background check is a potentially disqualifying factor involves looking at the requirements of the Contract, the Scope of Work, where the work will be performed, the need for access to restricted areas, and the type of persons or places the Contract Worker will encounter. Contractor should review the background check results and determine whether the nature of the conviction or crime reported would create a risk to the City based on the Contract's requirements.
- A.** For a Contract Worker requiring a standard risk background check, potentially disqualifying convictions include a record of theft, identity theft, computer fraud or abuse, burglary, arson, crimes against property, violent crimes, or other crimes involving dishonesty, or embezzlement.
 - B.** For a Contract Worker requiring a maximum risk background check, potentially disqualifying convictions include a record of child molestation, assault, sexual assault, crimes against a person, public indecency, drug offenses, forgery, theft, burglary, arson, crimes against property, violent crimes, crimes for financial gain, identity theft, computer fraud or abuse, and embezzlement.
- 27.2.5.** If a background check shows that the disposition of an arrest is unknown, then Contractor must determine the disposition of the arrest.
- 27.2.6.** Contractor will obtain a Contract Worker disclosure from each Contract Worker who will perform work under this Contract. Contractor will provide



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the Contract Worker disclosures to the City upon request. “Contract Worker disclosure” means an affidavit by a Contract Worker disclosing his or her prior criminal record. The Contract Worker disclosure must list all criminal convictions, including the nature of the crime, the date of the conviction, and the location where the crime and conviction occurred. The Contract Worker disclosure also grants to the City the right to review the background check results. (City of Phoenix A.R. 4.45)

27.2.7. In a standard risk background check, Contractor must review the results of the background check and decide if a Contract Worker should be disqualified for work under this Contract. Contractor must engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker. After Contractor has made its decisions, a list of names of qualified Contract Workers will be provided to the City.

27.2.8. If Contractor is a sole proprietor, Contractor must submit to the City a copy of his or her own background check and a background check for all business partners, member, and employees that will work under this Contract and for whom the background check requirements of City of Phoenix A.R. 4.45 apply.

27.2.9. Contractor shall determine whether a Contract Worker is disqualified from performing work under this Contract.

27.3. STANDARD RISK BACKGROUND CHECK:

A standard risk background check must be conducted for the term of this Contract or five (5) years, whichever is shorter. Contractor shall conduct a standard risk background check on all Contract Workers whose work under this Contract requires:

- An airport security badge or key for access to City facilities,
- Access to sensitive information, confidential records, personal identifying information, or restricted City information, or
- Unescorted access to City facilities during normal and non-business hours.

“Personal identifying information” is defined by City of Phoenix A.R. 4.45.

27.4. Scope of the Standard Risk Background Check:

The standard risk background check conducted by Contractor must be based on the real identity and legal name of the Contract Worker and include felony and misdemeanor records checks from any county in the United States, the state of



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Arizona, and any other jurisdiction where the Contractor Worker has lived at any time in the last seven (7) years.

27.5. AIRPORT SECURITY BADGE HANDLING PROCEDURES

Contractor will comply with the following airport security badge handling procedures:

27.5.1. Key Access Procedures. If a Contract Worker requires keyed access to enter a City facility, then a separate key will be issued and Contractor must complete a return form and submit it to the City for each key issued.

27.5.2. Stolen or Lost Badges or Keys. Contractor shall immediately report any lost or stolen airport security badge or key to the City. A new airport security badge application or key issue form must be completed and submitted along with payment of the applicable fee prior to issuance of a new airport security badge or key

27.5.3. Return of Badges or Keys. All airport security badges and keys are the property of the City and must be returned to the Badging Office within one (1) business day after the Contract Worker's access to a City facility is no longer required under this Contract. Contractor shall collect a Contract Worker's airport security badge and all keys (1) when the Contract Worker's employment is terminated, (2) when the Contract Worker's services are no longer required at a City facility, or (3) when this Contract terminates, is cancelled, or expires, whichever occurs first.

27.5.4. Employee Identification and Access. Contract Workers must have an airport security badge and some form of verifiable company identification in their possession at all times while working under this Contract, unless otherwise provided in the Scope of Work. Contract Workers are strictly prohibited from entering any area of the Airport that is not authorized by the airport security badge or key issued to them by the Badging Office. The Aviation Department will determine who will have access to the Airport. Contract Workers access authority is only valid during their scheduled hours. Contractor shall provide the City with updates and changes in personnel as they occur.

27.5.5. Badge Fees. Contractor shall pay the airport security badge fees set forth in § 4-11(D) of the Phoenix City Code.

27.6. CONTRACTOR'S BREACH

Contractor agrees that the access control, airport security badge, and key requirements in this Section are necessary to preserve and protect public health, safety, and welfare. Therefore, Contractor shall be deemed in immediate breach of this Section upon the occurrence of any of the following:



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- A Contract Worker gains access to a City facility or a restricted or secured area of the Airport without the proper airport security badge or key.
- A Contract Worker uses another person's airport security badge or key to gain or attempt to gain access to a City facility or a restricted or secured area of the Airport.
- A Contract Worker begins work under this Contract without passing the appropriate Background Screening and being issued the proper airport security badge or key.
- A Contract Worker or Contractor submits false, incomplete, or misleading Background Screening information or submits any false, incomplete, or misleading information in an attempt to improperly obtain an airport security badge or key.
- Contractor fails to collect and timely return a Contract Worker's airport security badge or key to the City within three days of the (1) date the Contract Worker's employment terminates, (2) the date the Contract Worker is assignment to another City facility, or (3) when this Contract terminates, is cancelled, or expires, whichever occurs first

27.7. LIQUIDATED DAMAGES AND REMEDIES FOR BREACH

In addition to any other remedy available to the City at law or in equity, including the right to terminate this Contract, Contractor shall be liable for and shall pay to the City a stipulated damage in the amount of \$1,000.00 for each breach of this Section and for each time a Contract Worker entered a restricted or secured area of the Airport without proper authority. Contractor agrees that the stipulated damage amount is not a penalty, but is a reasonable estimate of the actual harm to the City caused by a breach and that the harm was very difficult to estimate at the time this Contract was entered into.

27.8. CONTRACTOR CERTIFICATION

Contractor certifies to the City that Contractor has read the foregoing Background Screening requirements and that all Background Screening information Contractor furnished to the City is accurate, complete, and current. Contractor further certifies to the City that Contractor has satisfied all Background Screening requirements and verified the legal worker status of each Contract Worker as required under this Section.

- 27.9. INSPECTION AND ACCEPTANCE:** Each product delivered shall be subject to complete inspection by the City prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. Ten business days will be allowed for this process. If delivered items are unacceptable and returned to the Contractor prior to acceptance, an additional five business days will be allowed for inspection when subsequent delivery occurs. It shall be the Contractor's responsibility to pick up



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unacceptable products, correct the deficiencies, and return the product following the corrections.

28. CONFIDENTIALITY

“Confidential Information” means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively “Recipient”), whether disclosed before or after the Effective Date, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Agreement; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Agreement; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Agreement. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City’s written request or expiration of this Agreement, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.



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If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section (Confidentiality). Contractor's obligations pursuant to this Section (Confidentiality) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

29. DATA PROTECTION

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Agreement. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: <https://www.fpc.gov/resources/glossary/>.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term "process," "processing," or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

29.1. When Contractor processes PII pursuant to the Agreement, Contractor shall, at no additional cost to the City:

29.1.1. Process PII only within the United States and only in accordance with the Agreement and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;

29.1.2. Implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; A.R.S. § 18-552 (Notification of Security System Breaches); A.R.S. § 44-7601 (Discard and Disposal of Personal Identifying Information Records); Health Information Technology for Economic and



SECTION III - SPECIAL TERMS AND CONDITIONS

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Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice; (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

- 29.1.3.** Not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- 29.1.4.** As applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- 29.1.5.** Take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;
- 29.1.6.** Maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Agreement and applicable laws;
- 29.1.7.** Allow the City or its authorized agents to conduct audit inspection during the term of the Agreement, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section;



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- 29.2.** If Contractor becomes aware of any actual or potential data breach (each an “Incident”) arising from Contractor’s processing obligations pursuant to the Agreement, Contractor shall notify the City at SOC@phoenix.gov without undue delay within 48 hours; and:
- 29.2.1.** provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;
 - 29.2.2.** take action immediately, at Contractor’s own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;
 - 29.2.3.** cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and
 - 29.2.4.** not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City’s prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys’ fees, damages or proceedings arising out of Contractor’s breach of this Section (Data Protection). Contractor’s obligations pursuant to this Section (Data Protection) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City’s discretion result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

- 30. SECURITY INQUIRIES:** Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor’s expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract.



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Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

- require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. 41-1750 (G) (4);
- act on newly acquired information whether or not such information should have been previously discovered;
- unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Agreement. Contractor will bear the costs of all inquiries requested by the City.



SECTION IV - INSURANCE AND INDEMNIFICATION

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SECTION IV – INSURANCE AND INDEMNIFICATION

1. INDEMNIFICATION CLAUSE:

Consultant (“Indemnitor”) must defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Agreement. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses or other amount arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely as a result of Indemnitee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to any work performed by Indemnitor or Indemnitor’s Agents for the City of Phoenix. The obligations of Indemnitor under this provision survive the termination or expiration of this Agreement.

2. INSURANCE REQUIREMENTS:

- 2.1. Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.
- 2.2. The City in no way warrants that the limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors and Contractor may purchase additional insurance as they determine necessary.



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2.3. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

2.3.1. Commercial General Liability – Occurrence Form: Policy must include bodily injury, property damage and broad form contractual liability coverage.

General Aggregate	\$5,000,000
Premises and Operations	\$5,000,000
Products – Completed Operations Aggregate	\$5,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$5,000,000

- The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.
- Policy must not contain any exclusions for operations on or near airport premises.

2.3.2. Automobile Liability: Bodily Injury and Property Damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$5,000,000
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- The policy must be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or



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borrowed by the Contractor.”

- Policy must not contain any exclusions for operations on or near airport premises.
- The Policy must be endorsed to include on-hook coverage for towing operations.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

2.3.3. Worker’s Compensation and Employers’ Liability:

Workers’ Compensation	Statutory
Employers’ Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- Policy must contain a waiver of subrogation against the City of Phoenix.
- This requirement does not apply when a contractor or subcontractor is exempt under A.R.S. §23-902(E), **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

2.3.4. Fidelity Bond or Crime Insurance

Bond or Policy Limit (minimum limit)	\$50,000
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- The bond or policy must include coverage for all directors, officers, agents and employees of the Contractor.
- The bond or policy must include coverage for third party fidelity, i.e. money and property of third parties that is held by the Contractor in any capacity, or property for which the Contractor is legally liable.
- The bond or policy must include but not be limited to coverage for theft of property located on the Insured’s premises or while in transit, loss due to forgery or alteration of negotiable instruments (e.g. securities, checks) or loss due to electronic funds transfer fraud.
- The bond or policy must not contain a condition requiring an arrest and conviction.



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3. NOTICE OF CANCELLATION:

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to (Aviation Department, Attn: Nichol Shrum, 2485 E. Buckeye Road, Phoenix, Arizona 85034).

4. ACCEPTABILITY OF INSURERS:

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

5. VERIFICATION OF COVERAGE:

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

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

The **initial certificates** required by this Contract shall be sent directly to:

City of Phoenix, Aviation Department
Contracts and Services Division
2485 E. Buckeye Road
Phoenix, AZ 85034-4301

All subsequent and renewal certificates of insurance and endorsements shall be sent directly to:

City of Phoenix, Aviation Department
c/o EXIGIS Insurance Compliance Services
P.O. Box 4668 – ECM #35050
New York, NY 10163-4668
Email: certificates-cityofphoenix@riskworks.com

The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**



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6. SUBCONTRACTORS:

Contractor's certificates shall include all subcontractors as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontractors have valid and collectable insurance. At any time throughout the life of the contract, the City of Phoenix reserves the right to require proof from the Contractor that its subcontractors have insurance coverage. All subcontractors providing services included under this Contract's Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Contractor may, on behalf of its subcontractors, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontractors with respect to this Contract.

7. APPROVAL:

Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed contract amendment.



SECTION V – SCOPE OF WORK

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SECTION V – SCOPE OF WORK

1. INTRODUCTION:

The City of Phoenix Aviation Department (“City”, “Aviation”) invites sealed offers from experienced and qualified vendors to provide towing and minor auto assistance at Phoenix Sky Harbor International Airport (PHX). The successful bidder shall provide all labor, material, equipment, and method of communication for towing and minor auto assistance on the Airport’s property seven (7) days per week and three hundred sixty-five (365) days per year.

2. AVIATION DEPARTMENT REPRESENTATIVE (ADR)

The ADR’s or designee will coordinate all projects and will be the sole judge concerning acceptability and quality of work. The ADR’s or designee will be consulted on any concerns or issues arising during the performance of work.

ADR: Floyd Johnson – Operations Division
Phone: 602-273-2765
Email: floyd.johnson@phoenix.gov

ADR: Lea Cons – Business and Properties Division
Phone: 602-273-3336
Email: lea.cons@phoenix.gov

3. APPLICABLE LAWS AND STANDARDS:

The services provided must meet the following established industry standards:

- 3.1. Any and all City ordinances, codes, rules and regulations adopted by the Airport.
- 3.2. All applicable Federal and State laws and regulations including Arizona Vehicle Code.
- 3.3. Arizona Department of Public Safety (ADPS) tow truck rules and regulations.

4. MINIMUM QUALIFICATIONS:

The qualified and responsive bidder must meet **all** minimum qualifications listed below. Should an offeror fail to meet one of the minimum qualifications identified, the offer will be disqualified as non-responsive.

- 4.1. Offeror must have a minimum of five (5) consecutive years of experience within the last ten (10) years providing towing services and minor auto assistance to an entity or entities that operate twenty-four (24) hours a day, seven (7) days a week. The minor auto assistance includes but not limited to battery boost, flat



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tire assistance, fuel delivery and lockout service.

4.2. Under this Contract the Offerors fleet must be, at a minimum, a 2018 or newer model. All Offerors must submit their vehicle information page per Section VI, paragraph 6. Failure of submitting such required information will be deemed non-responsive and the bid will be rejected.

4.3. If Offeror does not have 2018 or newer model, the City will allow Offeror to purchase the required towing and service trucks upon contract award. Offeror must provide the proposed interim towing and service trucks when submitting the offer for this Solicitation. The proposed towing and service trucks must be in good operating condition and must be inspected and approved by the Aviation Department Representatives (ADR's) prior to the start of services.

Within fourteen (14) days of Contract Award by City Council, Offeror must provide a contract, purchase order, bill of sale, vehicle purchase agreement, or merchandise bill of sale for the towing and service trucks meeting the year requirements set forth in the Contract.

Within thirty (30) days of Contract Award by City Council, Offeror must present the towing and service trucks to ADR's for inspection to ensure vehicles meet the requirements set forth in the Contract.

Within forty-five (45) days of Contract Award by City Council, Offerors must be utilizing 2018 or newer towing and service trucks.

5. DEFINITIONS:

5.1. Abandoned Vehicle Lot: The Airport's abandoned vehicle lot is located at 1500 S. 24th Street, Phoenix AZ 85034. The ADR's will advise of location changes in writing.

5.2. Abandoned Vehicle Tows: Relocation of vehicles left abandoned in Airport public or employee parking facilities.

5.3. ADR: The ADR's under this Contract are the Landside Superintendent and Parking Superintendent.

5.4. ADR Designees: this may include but not limited to: Aviation Department's supervisors, Operations Assistants, and other Airport operations staff.

5.5. Airport Complex: includes but limited to, the airport terminal curbs, airside areas, roadways, parking facilities, cargo areas, rental car facilities Phoenix Sky Train 44th street station,

5.6. Battery Boost: Provide jump-start in an attempt to start a vehicle.



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- 5.7. Construction Tows: Relocation of vehicles to allow maintenance or construction crews to perform work.
- 5.8. Enforcement Tows: Relocation of vehicles in violation of Phoenix City Code (i.e. parked in fire lanes, parked in unauthorized spaces, etc.)
- 5.9. Flat Tire: A deflated tire. If necessary, install the vehicle's spare tire if it is inflated and serviceable.
- 5.10. Fuel Delivery: Provide one (1) gallon of fuel to a disabled vehicle to enable the customer to reach the nearest open service station. There is no requirement for specific brands or octane ratings.
- 5.11. General Aviation Airport: Deer Valley Airport, 702 W Deer Valley Rd. Phoenix, AZ 85027, and Phoenix Goodyear Airport, 1658 S Litchfield Rd. Ste 1. Goodyear, AZ 85338.
- 5.12. Impounded Vehicle Lot: The Airport's impounded vehicle lot is located at 3100 E. Buckeye Road.
- 5.13. Lockout Service: Provide service to gain entrance to a vehicle if keys are locked inside the vehicle. Offeror will be required to verify the identity of the vehicle owner.
- 5.14. Parking Garage Relocations: Relocation of inoperable vehicles from parking structures to an accessible area for transport by an off-airport tow operator.
- 5.15. Security Tows: Removal of unattended vehicles from terminals curbs to impounded or abandoned vehicle lot.
- 5.16. Safety Tows: Relocation of inoperable or unattended vehicles impeding traffic.

6. GENERAL REQUIREMENT:

Offeror must:

- 6.1. Provide all labor, supervision, material(s), equipment, tools, transportation, and methods of communication and if required, additional miscellaneous services necessary to meet requirements of specified services throughout the terms of the contract.
- 6.2. At a minimum, there will be one (1) service truck and one (1) tow truck (snatch and go type). Both must be of a size that can enter and towing from any Airport parking garage.
- 6.3. All tow and/or service vehicles must be able to access the parking structures.



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Understand and agree that airport patrons are not obligated to use the services offered by the Offeror but may choose to use whichever service provider they prefer. The parking structures at the Airport have a low clearance of six feet eight inches (6' 8").

- 6.4. Offerors vehicles must carry absorbent to clean up oil spills and clear debris at an accident scene.
- 6.5. Offerors vehicles must be equipped to provide minor auto assistance. The minor auto assistance includes but not limited to: battery boost, flat tire assistance, fuel delivery and lockout service.
- 6.6. Ensure all vehicle(s) providing services under this contract meet the requirements stated in Section VI, paragraph 6. Be solely responsible for assuring that all vehicles are in good working order. This shall mean all vehicles are fully functional and safe to operate.
- 6.7. Maintain and keep both towing and service vehicles in good working condition. ADR's or the designee(s) will have the right to periodically examine all vehicles used by the Offeror for providing the required services under this Contract. Offeror will be required to repair or remove the vehicles found to be unsatisfactory to the ADR's or the designee(s).
- 6.8. Towing service performance includes but not limited to security tows, enforcement tows, safety tows, construction tows, abandoned vehicle tows, parking garage relocations and other vehicle tows as directed by the ADR's or designee(s).

7. SERVICE REQUIREMENTS:

- 7.1. Offeror assigned vehicles must be on-site at 3102 E. Buckeye Road between 6:00 AM – 12:00 AM.
- 7.2. Offeror must obtain all required permits necessary to perform the work under this Contract.
- 7.3. Offeror's drivers must be properly licensed and must operate the vehicles in a safe and prudent manner.
- 7.4. All vehicles used to provide services under this Contract must have a current Arizona Vehicle Emission Inspection Certificate to exhibit compliance with local emissions standards.
- 7.5. Daily Service Hours: Hours may be adjusted semi-annually to accommodate daylight savings adjustments to flight schedules.



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- 7.5.1.** Tow Truck service is required daily from 6:00 AM –12:00 AM for a total of 18 hours a day, 7 days a week, 365 days a year.
- 7.5.2.** Service Truck is required daily from 6:00 AM –12:00 AM for a total of 18 hours a day, 7 days a week, 365 days a year.
- 7.5.3.** Call-Out Hours 12:01 AM – 5:59 AM for a total of 6 hours a day, 7 days a week, 365 days a year.
- 7.6.** Offeror must require all vehicle drivers to maintain a valid Arizona Driver's License in accordance with the provisions of the Arizona Motor Vehicle Code. Offeror must provide a copy of all vehicle driver's license upon request of the ADR.
- 7.7.** Vehicles will only be towed or serviced at the direction of the ADR's or the designee(s).
- 7.8.** At the direction of the ADR, abandoned vehicles must be taken only to the Airport's abandoned vehicle lot located at 1500 S. 24th Street. Phoenix AZ 85034.
- 7.9.** Offeror must collect, on behalf of the City, the vehicle storage fee of twenty-seven (**\$27.00**) dollars per day to all impounded vehicles prior to releasing to the registered owner or other person(s) entitled to possession in accordance with State law requirements, City ordinances, and applicable Airport rules and regulations that are or may become effective during the term of this Contract. The daily storage fee will apply after twenty-four (24) hours of the initial tow. Offeror must provide accurate and complete auditing and reporting of its revenue operation by sending monthly check payments with an invoice/transaction history report for services provided.
- 7.10.** Offeror must provide a twenty-four (24) hour phone number for the primary and secondary contact personnel as identified in the Submittal Section that will ensure a prompt response to meet the emergency needs of the Aviation Department. These employees must be qualified company representatives and they must respond within the required time.
- 7.11.** Upon receipt of notification from the ADR or the designee(s), Offeror must increase the number of tow vehicles within three (3) hours.
- 7.12.** Upon request from the ADR, Offeror must be able to provide a separate vehicle as needed for towing service for the General Aviation Airports.
- 7.13.** DAILY OPERATION RESPONSE TIME: Offeror must arrive on scene and hook up vehicle(s) to be towed within 10 minutes of receiving a request. The ten (10) minute response time is required seven (7) days a week and three hundred sixty-five (365) days per year.



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Services must be provided by the Offeror for the entire Airport complex. The ten (10) minute response time shall not apply when the tow vehicle or service vehicle is performing services under this contract and is unavailable to respond until the service is completed.

- 7.14. AFTER HOUR SERVICE:** Upon initial notification by the ADR's or designee(s), Offeror's initial response (via telephone) must be within ten (10) minutes. On-site response (physical presence) must be within thirty (30) minutes.
- 7.15.** Offeror must immediately report to the ADR's or designee(s) all unusual incidents involving the Offeror's personnel, as well as accidents that arise out of, or in connection with, Offeror's operations under this Contract. A written report detailing such incident must be followed and submitted to the ADR's or designee(s) within twenty-four (24) hours after the occurrence of such incident.
- 7.16.** Offeror must ensure that all incidents and accidents that require immediate attention (i.e. incidents or accidents that result in serious injury or any damage) are reported to the on-duty Airport Police immediately by telephone when they occur. In addition, Offeror must promptly report to the Airport Police any claims made or filed against Offeror in regard to the services provided hereunder. Offeror agrees to promptly furnish to the Airport Police copies of all reports prepared by or for the Offeror's insurance carrier in regard to any such claims.
- 7.17. VEHICLE APPEARANCE:** Offeror vehicles must be clean, in good repair, mechanically sound and without major body damage. Vehicles must be free of major fluid leaks including oil and gas. Offeror's vehicles will be required to have the company name and/or logo in a minimum 3-inch letter size permanently displayed on both doors.
- 7.18.** Tow vehicle must be capable of removing or moving a vehicle within five (5) minutes of arriving at any Airport location unless other arrangements are made with the ADR's.
- 7.19.** Tow vehicle must be capable and appropriately rated to tow vehicles with Gross Vehicle Weight Rating (GVWR) of 15,000 pounds (large SUV, medium duty trucks), trailer and equipped to tow motorcycles.
- 7.20.** Tow vehicle must also be able to tow vehicles safely with oversized tires and wheels.
- 7.21.** Upon request by the ADR's or designee(s), Offeror must provide an additional and/or specialized tow vehicle, such as flatbed vehicle or heavy equipment tow vehicle to accommodate vehicles with GVWR in excess of 15,000 pounds at no



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additional cost to the City. The cost for this service must be included in the bid price. The on-site response time (physical presence) must be within thirty (30) minutes upon receipt of initial request.

7.22. Any call for tow or service initiated prior to end of established schedule must be included as part of the regular rate (City shall not be charged an extra fee for these types of calls). City may require Offeror’s staff to call ADR’s or designee(s) nightly for release from duty. Any request for tow or service that occurs near the end of the schedule, the City shall have the option of holding over staff to complete services. These services must be charged at the hourly rate and not charged as a call-out.

7.23. Arrangements must be made to have another tow or service vehicle on the Airport if a tow or service vehicle is removed for fueling and/or routine maintenance. Arrangements must be made so that there is a driver and a vehicle on the Airport property at all times (i.e. when the driver takes lunch breaks, any other kind of breaks, or for shift changes). There cannot be any service interruptions at any time.

7.24. In the event of a tow or service vehicle breakdown, there must be another tow or service vehicle on site within thirty (30) minutes. This temporary back up vehicle must comply with all requirements under this contract. If the temporary back up vehicle is required to stay on Airport property providing service more than two (2) hours, Offeror must consult and obtain an approval from the ADR’s or designee(s).

8. FEE COLLECTION:

8.1. Offeror must collect tow impound fees, and/or storage fees from patrons on behalf of the City in accordance with the fee collection schedule below for each enforcement tow operation including tows outside the established schedule.

8.2. All fees collected for provided services must be remitted back to City. A monthly check payable to: Attn: Accounts Receivable, 2485 E. Buckeye Road, Phoenix, AZ 85034 (document AVN IFB 23-031 on the memo line), must be received by the 5th of each month for the previous month’s collected fees. Please include a transaction history report/receipts indicating the fees collected.

Item No.	Tow Description	Rates
1.	Vehicle Release	\$75 / per tow
2.	Impound Vehicle Storage	\$27 / per day after 24 hours of initial tow



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3.	Vehicle Relocate	\$30 / per relocate*
4.	Gas	\$5 / per gallon

*(Fee may be waived subject to Operations Staff, ADR, or designee(s) approval)

8.3. Offerors service driver must collect \$5.00 for each fuel service call that is provided. A minimum of one gallon must be provided to collect the fee. Upon request, additional gallons may be provided to the driver at the rate of \$5.00 per gallon. No fees will be collected for other minor repairs or assistance (flat tire, lock-out, jump start, air for tires, etc.).

8.4. No fee will be collected for the towing of City of Phoenix vehicles. For reporting purposes, please list City of Phoenix towed vehicles on the transaction history report/invoice as a \$0 fee.

9. COLLECTION OF MONIES:

Offeror must:

9.1. Be responsible for collecting from vehicle owners, monies owed for services provided, and must charge only up to the amount(s) set forth herein for any services provided. The City is not responsible for any payments for services provided by the Offeror to others outside the terms of the contract.

9.2. Offeror must accept for payment of services the following forms of payment:

9.2.1. Cash

9.2.2. Personal Checks: Driver's license and a check guarantee card may be required. Checks should be made out to the Offeror. Normal fees incurred in collecting ISF/NSF or stopped payment checks should be included in the overhead cost used to compute the proposed monthly fee.

If Offeror accepts a personal check, Offeror is assuming the risk and will use discretion in requiring identification for that personal check.

9.2.3. Debit/Credit Cards: Normal fees for disputed credit card charges should be included in the overhead cost used to compute the proposed monthly fee. Credit card processing fees are viewed as a cost of doing business and will not be relieved. Offeror shall abide by all Payment Card Industry standards for the safeguarding of credit card information.

9.3. All fees collected for provided services must be remitted back to City. A monthly check payable to: Attn: Accounts Receivable, 2485 E. Buckeye Road, Phoenix,



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AZ 85034 (please document AVN IFB 23-031 on the memo line), must be received by the 5th of each month for the previous month's collected fees. Please include a transaction history report/receipts indicating the fees collected.

- 9.4. Be responsible for informing owners in accordance with procedures established by the City of the options available to recover their vehicles, providing customers with City of Phoenix approved Tow Hearing Request Form and for transmitting all necessary paperwork to the City of Phoenix. If a refund is requested to be given back to a customer at a tow hearing, the Offeror will provide payment to customer. Offeror will provide the refund amount on a credit memo with the next monthly invoice.

10. BILLING REQUIREMENTS:

- 10.1. Offeror must submit monthly invoices for services provided no later than the 5th of each month to invoices@phoenix.gov.
- 10.2. Invoices will be paid monthly in arrears. The invoice must be issued in accordance to prices established in this Contract.
- 10.3. Monthly invoices are subject to review and are to be in a format acceptable to the City. The specifics about the invoice format will be discussed during a post award meeting with the ADR's. Further direction and assistance will be provided as requested by Offeror for any monthly invoice statement questions and concerns.
- 10.4. Service vehicle charge, tow vehicle charges, and requests for additional or specialized tow vehicles must be listed as separate line items within the monthly invoice or invoiced independently at the request of the City.

11. REPORTING REQUIREMENTS:

For both tow truck and service truck, Offeror must keep:

- 11.1. **Daily Activity Logs (to be submitted on a weekly basis):** Offeror must document all daily activities for both tow truck and service vehicle on daily activity logs respectively. Activity logs must be compiled and submitted **via email on a weekly basis** to ADR and his/her designees. The submission is due by the following Monday at noon. The documented daily activities must be supported by tickets/receipts issued. The tickets/receipts issued must be scanned in pdf file and be submitted with Daily Activity Logs. Upon award of the contract, Offeror must meet with the ADR or his designee to determine on the format and information to be included in the log. At a minimum, the daily activity log must include the following information:



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- 11.1.1. Date and time (start / end time)
- 11.1.2. Ticket / Receipt number
- 11.1.3. Nature of the tow and/or service
- 11.1.4. Make, model and year
- 11.1.5. License plate number and State issued
- 11.1.6. Vehicle Identification Number (VIN)
- 11.1.7. Location
- 11.1.8. Charge (if applicable)

11.2. Daily Vehicle Log:

Daily vehicle logs for inspection of the vehicles prior to the starting of each shift. This daily vehicle log is to ensure tow truck and service vehicle are in good working condition to perform service. This daily vehicle log of each vehicle must be available for review by the ADR's or designee(s) upon request.

11.3. Weekly Inventory List for Unclaimed Vehicles:

Providing a weekly inventory list for all towed vehicles, which have not been claimed, by the owner or the owner's authorized agent. Such weekly inventory list will be provided via email to the ADR and his/her designee by the following Monday noon. At a minimum, the weekly inventory list for unclaimed vehicles must include the following information:

- 11.3.1. Make, model, and year;
- 11.3.2. License plate number and state issued;
- 11.3.3. Vehicle Identification Number (VIN);
- 11.3.4. Location;
- 11.3.5. Date the vehicle was towed; and
- 11.3.6. City of Phoenix impound number

11.4. Monthly Summary Data:

Monthly Summary Data must include the following:

- 11.4.1. Number of vehicles towed;
- 11.4.2. Number of flat tires changed;
- 11.4.3. Number of lockouts performed;
- 11.4.4. Number of miscellaneous services (i.e. fuel delivery);
- 11.4.5. Number of vehicles stored in the impound lot; and
- 11.4.6. An itemized breakdown for each vehicle towed which includes a breakdown of accumulated changes.
- 11.4.7.



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11.5. Tickets/Receipts:

Tickets/Receipts must be in a three-part form: One copy for the customer, one copy for the Aviation Department, and one copy for the Offeror. Tickets/Receipts must be sequentially numbered and accounted for. Any voided ticket/receipt must be turned into the Aviation Department to ensure no numbers are missing. Failure to do so will result in a penalty and liquidated damages will be applied.

Tickets must include the following:

- 11.5.1. Company Name
- 11.5.2. Mailing Address
- 11.5.3. Local telephone number with area code
- 11.5.4. Nature of the tow and/or service
- 11.5.5. Location
- 11.5.6. Date and Time
- 11.5.7. Make, model, and year of vehicle
- 11.5.8. License plate number and state issued
- 11.5.9. VIN
- 11.5.10. Charge for service provided (if applicable)

11.6. Driving Records: Offeror must perform an annual motor vehicle record check on all driver's and provide documentation to the ADR's by December 1st of each year.

12. NOTICE TO POLICE FOR RELOCATED VEHICLES:

Offeror must report all relocated vehicles to the Phoenix Police Vehicle Impound Unit when the owner of a relocated vehicle has not picked up the vehicle or has not made arrangements to the vehicle within one (1) hour (or other duration as specified by the Aviation Department) from the time of the initial tow. Offeror must contact Phoenix Police at (602) 262-7905 (24-hour number) per Phoenix City Code Section 36-6.1. and report the following:

- 12.1. Name and address of the owner of the vehicle if known.
- 12.2. The vehicle license number and description
- 12.3. The reason the vehicle is being moved without permission of the owner.
- 12.4. Location where the vehicle is being taken
- 12.5. Name and address of the person or company that is to tow or transport the vehicle.



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13. COMPLAINT RESOLUTION:

13.1. When Offeror receives written complaints from customers or personnel regarding the services provided, Offeror must forward complaints immediately to ADR's for review. Offeror is required to immediately report infractions of Airport Security Rules and Regulations and Procedures by any employee of the Offeror to ADR's.

13.2. In addition, Offeror must provide the ADR's, or the designee(s), with a plan to resolve any customer service complaints or issues. Offeror must respond to the ADR's the designee(s), in writing of its investigation process to any customer complaint. Offeror must respond in writing within forty- eight (48) hours. The response letter, written on company letterhead, must include, but not limited to, the following:

13.2.1. Date and time of incident

13.2.2. Acknowledgement of the complaint

13.2.3. Summary of incident

13.2.4. Investigation process

13.2.5. Resolution process (verbal counseling, training, re-assignment, suspension, termination)

13.2.6. Prevention measures

At the direction of the ADR's, or the designee(s), Offeror's key personnel including management will be required to meet with the ADR, or his/her designee, to discuss issues/problems and/or concerns. Transportation and labor hour costs associated with this requirement must be borne by Offeror. These meetings will be scheduled with advance notice.

14. TRANSPORTATION SECURITY ADMINISTRATION (TSA) HEIGHTENED SECURITY LEVEL:

Transportation Security Administration (TSA) may heighten security at Sky Harbor, or security level be permanently raised to include the following restriction: no unattended vehicles may be left for any period at the terminal curbside areas. During any special security enforcement periods, Contractor may be required to have up to three (3) tow vehicles and operators but no less than one (1) tow vehicle and operator available and stationed at Sky Harbor to respond immediately to tow service requests 24 hours per day. The number of tow vehicles with operators required at any point in time is at the sole discretion of the ADR or his/her designee. Contractor must increase the number of tow vehicles with operators within three (3) hours of verbal notice. If more than three (3) tow trucks with operators are required, the City of Phoenix Aviation Department reserves the right to use the services of an additional Contractor.

15. COMMUNICATION:

15.1. Offeror will be required to operate an internal communication system that is capable of supporting direct communications for its employees, supervisory and



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management personnel. Employees on duty must be in immediate and constant radio contact with all other employees on duty and, in addition, with supervisor or management personnel.

- 15.2.** Offeror will be provided an adequate number of City radios and equipment as determined by the Aviation Department to communicate with Airport Operations staff. Any replacement batteries or additional accessories, such as clips or microphones must be purchased through the Aviation Department at Offeror's sole discretion and expense.
- 15.3.** All radios furnished by the City must be returned in sound working order upon completion, termination, or expiration of the Contract or at the request of the City. Offeror must be responsible for paying for repairs for any damage to the radios. Offeror must also be responsible for paying the full replacement value for any lost, stolen, or misplaced radio.
- 15.4.** Offeror staff and vehicle operator(s) will be required to attend a radio-training course conducted by the City. Vehicle operator will be responsible for responding to all radio calls and indicating his/her location and activity in a timely and professional manner.

16. OFFEROR EMPLOYEE QUALIFICATIONS: All Offeror employees must meet the following general qualifications:

- 16.1.** Be a minimum of 19 years of age.
- 16.2.** Be a citizen of the United States or eligible to work legally within the U.S.
- 16.3.** Be able to read and understand fluent English to carry out applied printed rules, detailed orders, instructions, and training materials.
- 16.4.** Be able to compose precise short paragraphs and written reports in English.
- 16.5.** Be able to communicate fluently in English to communicate with co-workers, ADR or his/her designees and the public.
- 16.6.** Possess a valid Arizona driver's license for operating motor vehicles required in the performance of this contract. Any conviction of driving under the influence (DUI) within the last five (5) years (at the time of application) disqualifies the individual from employment under this contract. Personnel must have the applicable auto and/or motorcycle license for the jurisdictions they are assigned. All required licenses must be obtained at no additional cost to the City.
- 16.7.** Pass Airport background checks that gives you a "Public badge".

17. APPEARANCE: All Offeror employees' attire must be neat, clean, and have a professional appearance. Drivers must wear uniform and equipment accessories as required by the contract. All Offeror employees must comply with the following:

- 17.1.** Offeror-issued name badge is required on the outside of the uniform; name must be clearly visible.
- 17.2.** All uniforms must be free of stains, holes, tears, etc.



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- 17.3.** All uniforms must be of the same style and color.
- 17.4.** All logos on shirts, vest, hats, etc., must be identical in nature.
- 17.5.** Shirts must be of solid color with shoulder identification patches not less than 2" that include the Offeror's logo and name. Identification patches must be on each shirt/jacket and any outer garment.
- 17.6.** Shirts must have a collar and a designated logo on the front, and tucked in at all times.
- 17.7.** Long sleeve shirts must be worn with the cuff fully extended and buttoned.
- 17.8.** Short sleeve shirts must be worn with sleeves fully extended.
- 17.9.** Any undershirts worn must be clean, of a solid color, and must not contain any logos.
- 17.10.** Full-length slacks must be of a solid color.
- 17.11.** Shorts must have a 7 1/2" or 8" inseam minimum and be of a solid color.
- 17.12.** Hats with the designated logo may be worn but are not to be worn backwards.
- 17.13.** Shoes must be clean, closed-toed, and worn with socks. No sandals of any kind will be worn.
- 17.14.** Rain gear and/or jackets with the designated logo may be worn only during times of rain or cold days and must match existing uniform.
- 17.15.** Only professional appearing prescription eyeglasses/sunglasses may be worn with the uniform. Sunglasses or eyeglasses that are faddish in style, color (e.g. bright, iridescent, or fluorescent, etc.), or have lenses or frames with initials or other adornments will not be worn. Mirrored or opaque sunglasses may not be worn. Sunglasses or darkly tinted glasses will not be worn inside the building unless deemed necessary by a licensed medical physician.
- 17.16.** All Offeror employees must, at all times while on duty, be appropriately dressed in a manner approved by the City and will be neat in dress, use proper hygiene and be courteous and informed.
- 17.17.** No smoking, chewing tobacco, or use of any tobacco product of any kind is permitted while on duty.
- 17.18.** Facial hair (beards, mustaches, sideburns, etc.) must be kept in a clean and trimmed manner.
- 17.19.** Hair must be clean and trimmed at all times.
- 17.20.** Body odor must be controlled so as not to be offensive



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18. OFFEROR STANDARD OF CONDUCT:

Offeror must:

- 18.1.** Maintain the highest standards of employee competency, conduct, cleanliness, appearance, and integrity.
- 18.2.** Perform service under the contract in accordance with regulations as well as safe and secure working procedures and practices.
- 18.3.** Ensure all personnel are subject to all federal, state, and local laws in the jurisdiction in which they are performing services. Violations may result in suspension, removal, and/or arrest of the employee.
- 18.4.** Ensure its employees carry business cards with information on how to contact the company.
- 18.5.** Prohibit its employee from carrying weapons in either their personal vehicle, tow truck or service vehicle. Firearms or weapons of any kind are not permissible on Airport property.
- 18.6.** Ensure Offeror's employees to comply following guidelines:
 - Conduct himself/herself in a professional manner and treat all passengers with respect. No behavior, comments, jokes, slurs, or language that contributes to an intimidating or offensive environment is allowed.
 - 18.6.1.** Cellular phone usage while driving is prohibited.
 - 18.6.2.** Not accept gratuities, tips, and/or gifts, such as money, lunches, or free items.
 - 18.6.3.** Portray the City of Phoenix in a positive light.
 - 18.6.4.** Speak clearly and concisely when reporting situations on the radios.
 - 18.6.5.** Provide information about Airport services to passengers
 - 18.6.6.** Report immediately any confrontations and/security related issues to ADR or his/her designee and/or Airport Communication Center.
 - 18.6.7.** Provide bilingual assistance through designated personnel.
 - 18.6.8.** Not be accompanied by friends or family members while on duty.
 - 18.6.9.** Not work on the company vehicle / truck or any other vehicle while on duty.

19. CUSTOMER SERVICE STANDARD:

Offeror may be required to participate in airport-sponsored customer service or security training. The Offeror and his operators are responsible to abide by the customer service standard guideline, which includes but is not limited to the following:

- 19.1.** Remain professional at all times.



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- 19.2. Provide prompt, friendly, courteous service and accurate information.
- 19.3. Tips are not to be accepted.
- 19.4. Assure compliance of curbside safety practices at all times.
- 19.5. Assist customers requiring special needs.
- 19.6. Report immediately all safety concerns.
- 19.7. Report immediately any confrontations between customers and/or other individuals to his/her supervisor, who must immediately contact City-designated personnel.
- 19.8. Keep the work area free of obstacles and debris.

20. REMOVAL/REPLACEMENT OF OFFEROR EMPLOYEES:

Offeror must remove any employee from the work site upon a determination that the individual has been assigned to duty for which he/she is not qualified for either suitability or security reasons, or is found to be unfit for the performance of duties during tour of duty. The City may request the removal of any employee determined to be non-compliant with the qualifications for the work site. Offeror must bear full financial responsibility for costs when removal/replacement has been deemed necessary. Offeror must take appropriate action if any driver is found committing any of the following offenses:

- 20.1. Violating federal, state or local laws or any Airport rule and regulation.
- 20.2. Failing to demonstrate courtesy and good manners.
- 20.3. Unauthorized use of City property, inclusive, but not limited to, communication equipment, telephones (wire and mobile) or radios, automobiles.
- 20.4. Falsifying or unlawfully concealing, removing, mutilating, or destroying any official documents, records, badges, keys, or concealing material facts by intentional omission from official documents or records.
- 20.5. Entertaining, socializing or entering business arrangements with, or giving legal advice to, persons while on City property.



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- 20.6.** Recommending an attorney or medical practitioner for any matter or incident involving actions occurring on City property.
- 20.7.** Receiving traffic violations, notices, or tickets, or violating or permitting others to violate procedures or regulations while in the performance of duties.
- 20.8.** Displaying disorderly or immoral conduct, e.g., using abusive or offensive language, quarreling, intimidating by words or actions, fighting, or participating in disruptive activities.
- 20.9.** Gambling or unlawfully wagering or promoting gambling.
- 20.10.** Knowingly associating with persons known to be convicted felons or persons known to be connected with criminal activities.
- 20.11.** Accepting or soliciting gifts, favors, or anything of value in connection with official duties.
- 20.12.** Using uniform, security badge and/or other identification for other than official business while on or off duty.
- 20.13.** Displaying unethical or improper use of official authority identification or credentials, e.g., badges, passes or other documents providing special access or privileges.
- 20.14.** Knowingly giving false or misleading statements or concealing material facts in connection with travel vouchers, official reports, any records, investigations, or other proceedings.
- 20.15.** Knowingly making false statement(s) about other contract employees/officials, the general public, federal employees, and airport employees.
- 20.16.** Involvement in any form of discrimination or sexual harassment of other contract employees, federal employees, and airport employees or members of the general public.
- 20.17.** Failing or delaying (without justifiable cause) to carry out a proper order of a supervisor or other official having authority to give such orders.



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- 20.18.** Being under the influence of alcohol or drugs while on duty, or consuming alcohol or drugs while on duty.
- 20.19.** Being employed with or without compensation, by any foreign government, firm, corporation, or individual that is either controlled or managed by any foreign government. Being employed as a government or contract employee, or any other position that would constitute a real or apparent conflict of interest with the mission of the City.
- 20.20.** Criminal or procedural misuse of issued weapons or ammunition, or the possession of any non-issued weapons or ammunition, as defined of Federal, State, or local law in the jurisdiction where the violation occurs.
- 20.21.** Granting special favors to employees, family members, and their friends.
- 20.22.** Violating the Smoke-Free Arizona Act.
- 20.23.** Talking on the cell phone with a passenger in the vehicle.
- 20.24.** Sleeping on duty.

21. SAFEKEEPING OF VEHICLES:

Offeror must:

- 21.1.** Be responsible for the safekeeping of all vehicles that come into its possession pursuant to this contract.
- 21.2.** Ensure that the interior areas of vehicles are protected from rain and other elements by closing all operating windows. In the event the window(s) are broken, the Offeror will seal the window(s) with plastic material to help prevent weather damage to the vehicle's interior. Vehicles must be secured by locking all doors, hoods, and trunks when possible. The cost for this service is to be included in the bid price.
- 21.3.** Notwithstanding any other provision of this agreement, the removal of property from a vehicle towed pursuant to this contract by the Offeror, or any other person acting with the permission, express or implied, of the Offeror, without the express permission of the vehicle's owner, or the owner's authorized agent, will be grounds for termination of this agreement. This provision must apply irrespective of whether the Offeror's management was aware of the unauthorized



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removal, and irrespective of the purpose of for the unauthorized removal.

- 21.4.** Aviation Department will supply a secure lot on Airport premises. Keys and locks to the lot will be furnished by the City and issued to the Offeror. The City of Phoenix must have access to the lot at all times.
- 21.5.** Notwithstanding any other provision of this agreement, the intentional act of the Offeror to reduce the value of, or lessen the cosmetic appearance of, a vehicle towed pursuant to this contract, without the express permission of the vehicles' owner, or the owner's authorized agent, must be grounds for termination of this agreement. This provision must apply irrespective of whether the Offeror's management was aware of the act identified herein, and irrespective of the purpose for the act identified herein. This provision will not apply to the natural operation of time or the elements on the condition of a vehicle.

22. SOLICITATION OF BUSINESS PROHIBITED:

- 22.1.** For purposes of this section, the term "Contractor," must include all of Contractor's officers, managers, employees, independent contractors, and agents.
- 22.2.** For purposes of this section, "access" must mean the opportunity to inspect either the interior or exterior, as applicable, of the property or to review or receive any document or electronic file containing information relating to the property.
- 22.3.** For purposes of this section, the term "services provided" must mean the period beginning when the Offeror receives a call for service under this contract and ending when the property's owner or his authorized agent has removed the property from the Offeror's premises or the Offeror has completed the services.
- 22.4.** Notwithstanding any other provision of this contract, this contract may be terminated by the City for a single violation of this section.
- 22.5.** In connection with any services provided pursuant to this contract, Offeror may not solicit business for, or contact the property owner, or his authorized agent, on behalf of, any body shop, repair facility, insurance company, insurance adjuster, towing company, wrecking yard, health care provider, lawyer, or other person or business of any description, during the services provided. Offeror may not enter into an agreement or single transaction with any business or person



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whereby Offeror is compensated in any way, either in money or in other consideration of any description, whether by flat fee, contingency or other arrangement, in exchange for the provision of information relating to the property, or its owner, towed or serviced pursuant to this contract. Offeror may not permit any person, other than a member of law enforcement or an employee or agent of any government acting in his or her official capacity, access to property towed pursuant to this contract unless that access is required in direct and specific furtherance of a responsibility imposed upon Offeror under this contract.

- 22.6.** Offeror must not perform any services, beyond the original tow of the property or minor auto assistance, relating to citizen property serviced pursuant to this contract for which payment is expected without the express written consent of the citizen before the service(s) is/are performed.



SECTION VI – SUBMITTALS

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1. **SUBMISSION OF OFFER – [Hard Copy Submission](#):**
 - 1.1. Refer to “SUBMISSION OF OFFER” paragraph 13 under the “SECTION I – INSTRUCTIONS” of this solicitation document.
 - 1.2. Please submit **one original, 1 copy**, and **two (2) electronic copy** (portable drive or CD) of the Submittal Section and all other required documentation.
 - 1.3. **Please submit only the Submittal Section, do not submit a copy of the entire solicitation document.** This offer will remain in effect for a period of 180 calendar days from the opening date, and is irrevocable unless it is in the City’s best interest to release offer(s)
2. **SUBMISSION OF OFFER – [Electronic Submission](#):**
 - 2.1. Refer to “SUBMISSION OF OFFER” paragraph 14 under the “SECTION I – INSTRUCTIONS” of this solicitation document.
 - 2.2. **Electronic Bid Submission via email:** Offers are to be submitted electronically via email to the following email address:

avn.procurephx@phoenix.gov

The email subject line **must** include IFB number and title. For example: AVN IFB 23-031 – Airport Towing and Minor Auto Assistance.

3. OFFER SUBMITTAL FORMAT:

The written offer should be:

- Typewritten for ease of evaluation;
- Signed by an authorized representative of the Offeror;
- Submitted with contact information for the individual(s) authorized to negotiate with the City;
- For hard copy submissions-submitted in a binder, preferably using double-sided copying and at least 30% post-consumer content paper;
- For hard copy submissions-submitted with a table of contents and tabbed per the following major sections:

- | | |
|--------------|---|
| Tab 1 | Cover Letter |
| Tab 2 | Table of Contents |
| Tab 3 | Executive Summary - Minimum Qualifications (not to exceed 2 double-sided pages) |
| Tab 4 | Submittals Section |
| Tab 5 | Signed Addenda, if applicable |



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4. COSTS AND PAYMENTS:

4.1. PAYMENT TERMS & OPTIONS: Vendors must choose an option, if a box is not checked, the City will default to 0% - net 45 days:

[] Contractor offers a prompt payment discount of either _____% - 30 days or 0% – 45 days - to apply after receipt of invoice or final acceptance of the products (invoice approval), whichever date is later, starts the 30 days. If no prompt payment discount is offered, the default is 0%, net 45 days; effective after receipt of invoice or final acceptance of the products, whichever is later. Payment terms offering a discount will not be considered in the price evaluation of your offer.

[] Contractor may be paid immediately upon invoice approval, if enrollment is made to the Single Use Account (SUA) Program, administered by the City’s servicing bank (“Bank”). By checking this box, the vendor accepts transaction costs charged by their merchant bank and agrees not to transfer to the City those extra charges. The City will not pay an increase in our services for the SUA charges; if an audit uncovers an upcharge for the SUA charges the vendor will owe the City all costs. The vendor may opt-out of the SUA program once, but then may not rejoin during the same contract term. For more information about the SUA program or to enroll, send email to mailbox.sua@phoenix.gov.

5. BID SCHEDULE – ALL OR NONE:

Table with 5 columns: Item No., Services Provided, Estimated Annual Hours, Proposed Hourly Rate, Extended Hourly Rate. Contains 3 rows of service details.



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4.	Charge per call-out for minor auto assistance between 12:00 AM and 6:00 AM during non-elevated levels of service (30 minutes response time).	5 Hours	\$	\$
5.	Charge per call-out for releasing a vehicle from impound lot between 12:01 AM and 5:59 AM.	20 Hours	\$	\$
6.	Hourly charge for additional tow vehicle(s) for extended levels of service.	50 Hours	\$	\$
7.	Hourly charge for additional service vehicle(s) for extended levels of service.	5 Hours	\$	\$
Grand Total – All or None				\$

6. VEHICLE INFORMATION:

The age of Offeror’s vehicles providing services under this Contract must be, at a minimum, a model year of **2018 or newer**. Please provide the following information:

6.1. TOW TRUCK

Year <small>(must be 2018 or newer)</small>	Vehicle Identification Number	Make	Model	License Plate Number

6.2. SERVICE TRUCK

Year <small>(must be 2018 or newer)</small>	Vehicle Identification Number	Make	Model	License Plate Number



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Table with 5 columns and 2 rows.

7. EMERGENCY 24-HOUR SERVICE CONTACT: Emergency 24-hour service is to be provided by Offeror at no additional cost. Offeror will provide an emergency contact person, with phone number, who is authorized to release material to the City during non-business hours, in the event of an emergency. Any changes with contact information must be submitted promptly to the ADR.

Primary Contact _____

Telephone Number _____

Alternate Contact _____

Telephone Number _____

8. YEARS IN BUSINESS AND REFERENCES:

Offeror certifies that they have provided towing services and minor auto assistance as listed in this solicitation for a minimum of five (5) consecutive years of within the last ten (10) years providing towing services and minor auto assistance to an entity or entities that operate twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five days a year.

[] YES [] NO

Offeror shall furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations for which the Offeror has provided towing and minor auto assistance.

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____



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Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____

Company Name _____

Address _____

Reference _____

Telephone Number _____

Email address _____



SECTION VI – SUBMITTALS

**CITY OF PHOENIX
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OFFER

TO THE CITY OF PHOENIX - The Undersigned hereby offers and agrees to furnish the material and or service(s) in compliance with all terms, conditions, specifications, and addenda issued as a result of a solicitation.

Arizona Sales Tax No. _____
Use Tax No. for Out-of-State Suppliers _____
City of Phoenix Sales Tax No. _____
Arizona Corporation Commission File No. _____

Taxpayer’s Federal Identification No.: If recommended for contract award, Bidder agrees to provide its federal taxpayer identification number or as applicable its social security number to the City of Phoenix for the purposes of reporting to appropriate taxing authorities, monies paid by the City of Phoenix under the awarded contract. If the Bidder provides its social security number, the City will only share this number with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

Enter City’s Registration System ID Number Located at City’s eProcurement website (see SECTION I – INSTRUCTIONS - CITY’S REGISTRATION)	
---	--

Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

Authorized Signature

Date

Verify Name and Type of Company
(LLC, Inc., Sole Proprietor)

Printed Name and Title
(Member, Manager, President)

Address _____
City, State and Zip Code _____
Telephone Number _____
Company’s Fax Number _____
Company’s Toll Free # _____
Email Address _____



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ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the material(s) or service(s) listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc. and the Contractor’s Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No._____. The Contractor has been cautioned not to commence any billable work or provide any material or service under this contract until Contractor receives purchase order, or contract documentation.

CITY OF PHOENIX
A Municipal Corporation
Jeffrey Barton, City Manager

Michael D. Hughes
Deputy Aviation Director

_____ this ____ day of _____ 2023
City Clerk

Approved as to form this 19th day of January 2017. This document has been approved as to form by the City Attorney and is on file with the City Clerk. It need not be submitted to the City Attorney for approval unless the form document is altered.



SECTION VI – SUBMITTALS

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CONFLICT OF INTEREST & SOLICITATION TRANSPARENCY FORM

This form must be signed and submitted to the City and all questions must be answered (or N/A) or your Offer may be considered non-responsive.

1. Name of person submitting this disclosure form.

First	MI	Last	Suffix
-------	----	------	--------

2. Contract Information

Solicitation # or Name:

3. Name of individual(s) or entity(ies) seeking a contract with the City (i.e. parties to the Contract)

4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture, or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.

5. List any individuals or entities that will be subcontractors on this contract or indicate N/A.

- Subcontractors may be retained, but not known as of the time of this submission.
- List of subcontracts, including the name of the owner(s) and business name:



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6. List any attorney, lobbyist, or consultant retained by any individuals listed in Questions 3, 4, or 5 to assist in the proposal or seeking the resulting contract. If none, indicate N/A.

7. Disclosure of Conflict of Interest:

A. City Code Section 43-34

Are you aware of any fact(s) with regard to this solicitation or resulting contract that would raise a “conflict of interest” issue under City Code Section 43-34?

“An elected City official or a City employee shall not represent any person or business for compensation before the City regarding any part of a procurement, including any resulting contract, if during the time the elected official is or was in office or the employee is or was employed by the City such elected official or employee played a material or significant role in the development of the solicitation, any other part of the procurement, or the contract award.”

- I am not aware of any conflict(s) of interest under City Code Section 43-34.
- I am aware of the following potential or actual conflict(s) of interest:

B. ARS Sections 38-501 et. Seq. & City Charter Chapter 11

State law and the Phoenix City Charter and Code prohibit public officers or employees, their close relatives, and any businesses they, or their relatives, own from (1) representing before the City any person or business for compensation, (2) doing business with the City by any means other than through a formal procurement, and (3) doing business with the City without disclosing that the person has an interest in the contract. This prohibition extends to subcontracts on City contracts and also applies to parent, subsidiary, or partner businesses owned by a public officer or employee. See A.R.S. Sections 38-501 through 38-511, for more information (City Charter, Chapter 11, applies the state conflict-of-interest law to City employees).

Please note that any contract in place at the time a person becomes a public officer or employee may remain in effect. But the contract may not be amended, extended, modified, or changed in any manner during the officer’s or employee’s city service without following city administrative regulations.



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Are you aware of any fact(s) with regard to this contract that would raise a “conflict of interest” issue under A.R.S. Sections 38-501 through 38-511 (See Arizona Revised Statutes regarding conflict of interest at www.azleg.gov).

- I am not aware of any conflict(s) of interest under Arizona Revised Statutes Sections 38-501 through 38-511.
- I am aware of the following conflict(s) of interest:

8. Acknowledgements

A. Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation

- I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.
- This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to **disqualification**.

B. Fraud Prevention and Reporting Policy

- I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to: telephone no. 602-261-8999 or 602-534-5500 (TDD); or aud.integrity.line@phoenix.gov.

The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud.



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OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.
Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

COMPANY (CORPORATION, LLC, ETC.) NAME and DBA



SECTION VII – EXHIBITS

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EXHIBIT A

SUPPLEMENTAL TERMS AND CONDITIONS TO ALL AIRPORT AGREEMENTS

1. Definitions

1.1 "Airport" means Phoenix Sky Harbor International Airport, Phoenix Deer Valley Airport, and/or Phoenix Goodyear Airport, according to the context of the contract.

1.2 "Contract" means all City of Phoenix Aviation Department contracts, subcontracts, agreements, leases, subleases, licenses, permits, concessions, and other documents, however denominated, that grant or convey a right or privilege on an Airport and to which this Exhibit is attached.

1.3 "Contractor" means all lessees, sublessees, licensees, permittees, consultants, concessionaires and other persons, firms, or corporations exercising a right or privilege on an Airport pursuant to a Contract and includes Contractor's heirs, personal representatives, successors, and assigns.

1.4 "Premises" means the area of an Airport occupied or used by Contractor pursuant to a Contract.

2. Federal Aviation Administration (FAA) Grant Assurances

2.1 Title VI of the Civil Rights Act of 1964 – Compliance with Nondiscrimination Requirements – 49 U.S.C. § 47123 and FAA Order 1400.11

During the performance of this Contract, Contractor agrees as follows:

A. Compliance with Regulations. Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as provided in Section 7 below), as it may be amended from time to time, which is incorporated herein by reference and made a part of this Contract.

B. Nondiscrimination. With regard to the work performed by it under this Contract, Contractor will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate, directly or indirectly, in the discrimination prohibited by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, including employment practices when this Contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.



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C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of Contractor's obligations under this Contract and the Title VI List of Pertinent Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

D. Information and Reports. The Contractor will provide all information and reports required by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Phoenix or the FAA to be pertinent to ascertain compliance with the Title VI List of Pertinent Nondiscrimination Acts and Authorities and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor will so certify to the City of Phoenix or the FAA, as appropriate, and will set forth what efforts Contractor has made to obtain the information.

E. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City of Phoenix will impose such Contract sanctions as it or the FAA may determine to be appropriate, including:

- (i) Withholding payments to Contractor under this Contract until Contractor complies, and/or
- (ii) Cancelling, terminating, or suspending this Contract, in whole or in part.

F. Covenant Running with the Land. Contractor for itself and its heirs, personal representatives, successors, and assigns, as a part of the consideration for this Contract, hereby covenants and agrees that, in the event facilities are constructed, maintained, or otherwise operated on the property described in this Contract for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Contractor will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities. In the event of a breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to terminate this Contract and to enter, re-enter and repossess the property and facilities thereon and hold the same as if this Contract had never been made or issued.



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G. Incorporation of Provisions. Contractor will include the provisions of paragraphs A through F in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Title VI List of Pertinent Nondiscrimination Acts and Authorities, the Regulations, and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the City of Phoenix or the FAA may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that if Contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, Contractor may request the City of Phoenix to enter into any litigation to protect the interests of the City of Phoenix. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

2.2 General Civil Rights Provisions – 49 U.S.C. § 47123

A. Sponsor Contracts. Contractor agrees to comply with pertinent statutes, executive orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision binds Contractor and sub-tier contractors from the bid solicitation period through the completion of this Contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

B. Sponsor Lease Agreements and Transfer Agreements. Contractor agrees to comply with pertinent statutes, executive orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance, including Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. If Contractor transfers its obligations to another, then the transferee is obligated in the same manner as Contractor. This provision obligates Contractor or its transferee for the period during which the property is owned, used, or possessed by Contractor and the City of Phoenix remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

2.3 Economic Nondiscrimination – 49 U.S.C. § 47107

In any Contract under which a right or privilege on the Airport is granted to a Contractor to conduct or to engage in any aeronautical activity for furnishing services to the public, Contractor shall:

A. Furnish its services on a reasonable, and not unjustly discriminatory basis to all users of the Airport, and



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B. Charge reasonable, and not unjustly discriminatory prices for each unit or services, provided that Contractor may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Non-compliance with this requirement shall be a material breach of this Contract for which the City of Phoenix shall have the right to terminate this Contract and any estate created herewith without liability therefor or, at the election of the City of Phoenix or the United States shall have the right to judicially enforce said requirement.

2.4 Disadvantaged Business Enterprise Requirements – 49 C.F.R. Part 26

A. Contract Assurance (§ 26.13). To the extent that this Contract is covered by 49 C.F.R. Part 26, Contractor agrees that this Contract is subject to the requirements of the U.S. Department of Transportation regulations at 49 C.F.R. Part 26. Contractor or its subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the City of Phoenix deems appropriate, which may include (i) withholding monthly progress payments, (ii) assessing sanctions, (iii) liquidated damages, and/or (iv) disqualifying Contractor from future bidding as non-responsible. Contractor agrees to include the foregoing statement in any subsequent contract that it enters into and cause those businesses to similarly include the statement in further agreements.

B. Prompt Payment (§ 26.29). Contractor agrees to pay each subcontractor under this Contract for satisfactory performance of its contract not later than seven (7) days from the receipt of each payment Contractor receives from City of Phoenix. Contractor agrees further to return retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City of Phoenix. This clause applies to both DBE and non-DBE subcontractors.

2.5 Airport Concessions Disadvantaged Business Enterprise Requirements – 49 C.F.R. Part 23

Contract Assurance (§ 23.9). To the extent that this Contract is a concession agreement covered by 49 C.F.R. Part 23, Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 C.F.R. Part 23. Contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 C.F.R. Part 23 that it enters into and cause those businesses to similarly include the statements in further agreements.



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2.6 Miscellaneous

A. Contractor agrees that it will undertake an affirmative action plan in conformance with 14 C.F.R. Part 152, Subpart E (Nondiscrimination in Airport Aid Program), to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment, contracting, or leasing activities covered in 14 C.F.R. Part 152, Subpart E. Contractor assures that no person will be excluded on such grounds from participating in or receiving the services or benefits of any program or activity covered by Subpart E. Contractor further agrees that it will require its covered suborganizations to provide assurances to Contractor that they similarly will undertake affirmative action programs and that they will require like assurances from their suborganizations as required by 14 C.F.R. Part 152, Subpart E.

B. City of Phoenix reserves the right to further develop, improve, repair, and alter the Airport and all roadways, parking areas, terminal facilities, landing areas, and taxiways, as it may reasonably see fit, free from any and all liability to Contractor for loss of business or damages of any nature whatsoever to Contractor occasioned during the making of such improvements, repairs, alterations, and additions.

C. The City of Phoenix reserves the right, but is not obligated to Contractor, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard.

D. Contractor acknowledges that this Contract is subordinate to any existing or future agreement between the City of Phoenix and the United States concerning the development, operation, or maintenance of the Airport. If the FAA or its successors require modifications or changes in the Contract as a condition to obtaining funds for improvements at the Airport or as a requirement of any prior grants, Contractor hereby consents to any and all such modifications and changes as may be reasonably required and agrees that it will adopt any such modifications and changes as part of this Contract.

E. This Contract is subordinate to the reserved right of the City of Phoenix and its successors and assigns to occupy and use for the benefit of the public the airspace above the Premises for the right of flight for the passage of aircraft. This public right of flight includes the right to cause in the airspace any noise inherent in the operation of any aircraft through the airspace or in landing at, taking off from, or operating at an Airport.



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F. Contractor agrees to comply with the notification and review requirements, as required by 14 C.F.R. Part 77 (Safe, Efficient Use, and Preservation of the Navigable Airspace), if future construction of a structure is planned for the Premises or a planned modification of a structure on the Premises. Contractor shall submit the required FAA Form 7460-1 (Notice of Proposed Construction or Alteration) and provide documentation showing compliance with the federal requirements. After the FAA has completed the aeronautical study, Contractor shall provide to the City of Phoenix the FAA determination letter on proposed construction and any impact to air navigation. Contractor covenants for itself and its successors and assigns that it will not erect or permit the erection of any structure or permit the growth of any tree on the Premises above the mean sea level elevation for (1) Phoenix Sky Harbor International Airport, 1,134 feet, (2) Phoenix Goodyear Airport, 968 feet, and (3) Phoenix Deer Valley Airport, 1,476 feet. As a remedy for the breach of the covenant, the City of Phoenix reserves the right to enter the Premises and remove the offending structure or cut the offending tree at Contractor's expense.

G. Contractor, by accepting this Contract, covenants for itself and its successors and assigns, that no use will be made of the Premises that might in any manner interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard to air navigation. As a remedy for the breach of the covenant, the City of Phoenix reserves the right to enter the Premises and abate the interference at Contractor's expense.

H. Contractor agrees that nothing in this Contract may be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e) (No exclusive rights at certain facilities).

I. This Contract is subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation, and taking-over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.

J. If this Contract involves construction, Contractor shall carry out the project in accordance with FAA airport design, construction, and equipment standards and specifications current on the date of project approval.

K. Contractor is encouraged to use fuel and energy conservation practices.

3. Immigration Reform and Control Act of 1986 (IRCA)

Contractor agrees that IRCA (Public Law 99-603) applies to it. Contractor shall comply with the provisions of IRCA as it applies to its activities under this Contract and to permit the City of Phoenix to inspect its personnel records to verify its compliance.



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4. Conflict of Interest

Contractor agrees that the City of Phoenix may cancel this Contract pursuant to Arizona Revised Statutes (A.R.S.) § 38-511 (Cancellation of political subdivision and state contracts).

5. Legal Worker Requirements

The City is prohibited by A.R.S. § 41-4401 from awarding an agreement to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A) (Verification of employment eligibility; e-verify program). Therefore, Contractor agrees that:

5.1 Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214(A).

5.2 A breach of warranty under paragraph A above shall be deemed a material breach of this Contract and is subject to penalties up to and including termination of the Agreement.

5.3 The City of Phoenix retains the legal right to inspect the papers of Contractor or its subcontractor employees who work on this Contract to ensure that Contractor or its subcontractors are complying with the warranty under paragraph A above.

6. City of Phoenix Equal Employment Opportunity Requirement

6.1 If Contractor is by this Contract a supplier to or lessee of the City, then the requirements of the Phoenix City Code, Chapter 18, Article V applies, including the agreement that:

“Any supplier/lessee in performing under this contract shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The supplier and/or lessee shall ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.”



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Supplier/lessee further agrees that this clause will be incorporated in all subcontracts, job-consultant agreements or subleases of this agreement entered into by supplier/lessee.

If the supplier/lessee employs more than 35 employees, the following language shall be included as the last paragraph to the clause above:

“The supplier/lessee further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.”

6.2 Documentation. Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

6.3 Monitoring. The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this Section 3 as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

7. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Contract, Contractor agrees to comply with all federal, state, and local nondiscrimination laws, rules, and regulation, including the following:

7.1 Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) (prohibits discrimination on the basis of race, color, or national origin).

7.2 49 C.F.R. Part 21 (Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964).

7.3 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §§ 4601, *et seq.*) (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal aid programs and projects).

7.4 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq.*), as amended (prohibits discrimination on the basis of disability), and 49 C.F.R. Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance).



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7.5 The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101, *et seq.*) (prohibits discrimination on the basis of age). Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex).

7.6 The Civil Rights Restoration Act of 1987 (Public Law 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973 by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, sub-recipients, and contractors, whether the programs or activities are federally funded or not).

7.7 Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*), which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities as implemented by U.S. Department of Transportation regulations at 49 C.F.R. Part 37 (Transportation Services for Individual with Disabilities) and Part 38 (Americans with Disabilities Act Accessibility Specification for Transportation Vehicles).

7.8 Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

7.9 Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) and resulting agency guidance and national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).

7.10 Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681, *et seq.*), as amended, which prohibits you from discriminating because of sex in education programs or activities.



SECTION VII – EXHIBITS

CITY OF PHOENIX
Aviation Department
2485 E. Buckeye Rd
Phoenix, AZ 85034

EXHIBIT B

City of Phoenix Aviation Department
Sensitive Security Information Acknowledgement Form

The documents entitled [fill in document title(s)] (“Documents”) to be used as part of the [fill in project name] contain Sensitive Security Information that is controlled under 49 C.F.R. Parts 15 and 1520. These documents may only be disclosed to persons who have the requisite “need to know”, as defined in 49 C.F.R. Parts 15 and 1520. Unauthorized release of this information may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 C.F.R. Parts 15 and 1520.

I acknowledge, on my behalf and that of my company, the above statement and agree to destroy the [fill in document title(s)], in compliance with 49 C.F.R. Parts 15 and 1520, upon the earlier of our company’s completion of our need to review and/or use the Documents or no later than [fill in current contract end date].

NAME OF COMPANY

AUTHORIZED REPRESENTATIVE PRINTED NAME

AUTHORIZED REPRESENTATIVE’S SIGNATURE

TITLE

PHONE NUMBER

ADDRESS

CITY, STATE AND ZIP CODE