



Revenue Contract Solicitation
RCS PCC 23-003
NEUTRAL HOST DISTRIBUTED ANTENNA SYSTEM

City of Phoenix
Phoenix Convention Center
100 N. 3rd Street
Phoenix, AZ
85004

RELEASE DATE: October 26, 2023
DEADLINE FOR QUESTIONS: November 22, 2023
RESPONSE DEADLINE: December 21, 2023, 2:00 pm

City of Phoenix
REVENUE CONTRACT SOLICITATION
RCS PCC 23-003
Neutral Host Distributed Antenna System

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1. INTRODUCTION

1.1. Summary

The City of Phoenix (the “City”) on behalf of its Phoenix Convention Center Department (“PCCD”) is seeking to enter into a service agreement with a distributed antenna systems service contractor (“Offeror”) to boost cellular signals in the North, South, West Buildings, and Symphony Hall. The system shall be installed and operational at no cost to the City, by December 31, 2024.

This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.

1.2. Contact Information

Doug Hayes

Contracts Specialist II

100 N. 3rd Street

Phoenix, AZ 85004

Email: doug.hayes@phoenix.gov

Phone: [\(602\) 495-7165](tel:(602)495-7165)

Department:

Phoenix Convention Center

1.3. Timeline

Schedule of Events

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 (Doug Hayes) at (602) 495-7165/Voice or 711/TTY, or doug.hayes@phoenix.gov, no later than two (2) weeks prior to the meeting.

Solicitation Issue Date	October 26, 2023
Pre-Offer Conference (Non-Mandatory)	November 16, 2023, 10:00am PCC West Building Room 212B 100 N. Third Street Phoenix, AZ 85004
Site Visit	November 16, 2023, following the Pre-offer Conference

Written Inquiries Due Date	November 22, 2023, 10:00am
Offer Due Date	December 21, 2023, 2:00pm doug.hayes@phoenix.gov and cpz.procurement@phoenix.gov

2. INSTRUCTIONS

2.1. Description – Statement of Need

The City invites offers for a Neutral Host Distributed Antenna System (NH-DAS) commencing on or about July 1, 2024, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

Notwithstanding the foregoing, the agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of the agreement.

2.2. City’s Vendor Self-Registration and Notification

Vendors must be registered in the City’s procurePHX Self-Registration System at <https://www.phoenix.gov/procure> 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.

2.3. Preparation of Offer

All forms provided in Submittal Section must be completed and submitted with the Offer. The signed and completed Conflict of Interest and Transparency form must be included or your Offer may be deemed non-responsive.

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.

All time periods stated as a number of days will be calendar days, unless otherwise provided.

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:

- A. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
- B. Study and carefully correlate Offeror’s knowledge and observations with the solicitation and other related data.
- C. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
- D. 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 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.

- E. 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.

2.4. Fixed Offer Price Period

All offers shall be firm and fixed for a period of 180 calendar days from the solicitation opening date.

2.5. Pre-Proposal Meeting

Offerors may attend the pre-proposal meeting via Microsoft Teams at the date and time listed in the schedule of events. Please register for this meeting by emailing the Procurement Officer listed on the front page.

2.6. Obtaining a Copy of the Solicitation and Addenda

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. 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, Phoenix Convention Center Department, Fiscal and Procurement Services Division, 100 North 3rd Street, Phoenix, AZ 85004. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their Offer.

2.7. 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.

2.8. 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 city council awards the contract. All questions concerning or issues related to this solicitation must be presented in writing.

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

2.9. Addenda

The City will not be responsible for any oral instructions made by any employees or officers of the City 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.

2.10. 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.

2.11. 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.

2.12. Certifications

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

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

2.13. Submission of Offer

Offers must be in possession of the 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 Department's clock.

Submitted electronically by email to doug.hayes@phoenix.gov and cpz.procurement@phoenix.gov. The following information should be noted in the email:

- A. Offeror's Name
- B. Offeror's Address (as shown on the Certification Page)
- C. Solicitation Number: *RCS PCC 23-003*
- D. Solicitation Title: *Neutral Host Distributed Antenna System*
- E. Offer Opening Date
- F. Due to file size limitations for electronic transmission (for sending or receiving), Offers sent by email may need to be sent in parts with multiple emails. It is the responsibility of the

Offeror to ensure that the Offer (including all parts if sent in multiple emails) is timely and to confirm that there are no technical reasons that any offer submitted electronically may be delayed. 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 was received on or prior to the exact time and date indicated in the Schedule of Events.

2.14. 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. If Offeror withdraws the Offer electronically by email to the Procurement Officer, the request to withdraw must be in the form of a letter attached to the email that includes either an image of the duly authorized representative's signature or an electronic signature from a verifiable source, such as Adobe Sign, DocuSign, or a similar verifiable software program.

2.15. Offer Results

Offers will be opened on the offer due date, time and location indicated in the Schedule of Events, at which time the name of each Offeror, and the prices may be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. 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 business 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 evaluated the offers, the City will post an award recommendation on the website. By signing and submitting its Offer, each Offeror agrees that this posting of the award recommendation to the City's website effectively serves as the Offeror's receipt of that notice of award recommendation. The City has no obligation to provide any further notification to unsuccessful Offerors.

2.16. Evaluation Criteria

In accordance with the Administrative Regulation 3.10. Competitive Sealed Proposal awards shall be made to the responsive and responsible Offeror(s) whose Offer is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in the relative order of importance and more details are provided in Section 3.2. The following evaluation criteria will be used to evaluate all Offers:

1. **Technical expertise and experience**
2. **Operational efficiency**
3. **Customer service**
4. **Financial Return to the City**

2.17. Pre-Award Qualifications

Offeror must have been in operation a minimum of 5-years. The Offeror's normal business activity during the past 5-years will have been for providing the goods or services in this solicitation.

Upon notification of an intent to award, the Offeror will have ten calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this agreement. Insurance requirements are non-negotiable.

2.18. Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive, responsible Offeror(s) who are regularly established in the service, or providing the goods, contained in this solicitation and who have demonstrated the ability to perform in an acceptable manner.

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

1. 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,
2. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
3. Safety record; and,
4. Offeror history of complaints and termination for convenience or cause.

B. 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.

C. 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 Chief Procurement Officer 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.

2.19. Solicitation Transparency Policy

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 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.

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. Offerors may not discuss the solicitation with any City employees or evaluation panel members.

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.

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.

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.

“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.

2.20. Protest Process

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 amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.

Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.

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.

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.

All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:

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

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.

2.21. 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, 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.

2.22. 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 a late Offer.

2.23. 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.

2.24. Site Inspection

A one-time walk-through site inspection tour will be conducted at the date and time indicated in the Schedule of Events. Submission of an offer will be prima facie evidence that the Offeror did, in fact, make a site inspection and is aware of all conditions affecting performance and offer prices.

2.25. Statement of Bonding Ability

Offerors must submit a letter from a bonding or insurance company stating that the Offeror can qualify for and procure the performance and/or payment surety required in this solicitation. Submittals received without the required statement of ability to secure a performance or payment surety may be considered as non-responsive. Offerors anticipating the submittal of a cash surety in lieu of a bond should submit a statement notifying the City.

2.26. Performance Bond

A performance surety in the amount of 10% of the total contract amount shall be provided by the Contractor immediately after notice of award. The City will not issue a written purchase order or give notice to proceed in any form until the surety is received by the Procurement Officer. The performance surety must be in the form of a bond, cashier's check, certified check, or money order. Personal or company checks are not acceptable unless certified. If surety is in the form of a bond, the company issuing the surety must be authorized by the Insurance Department of Arizona to transact business in the State of Arizona or be named on the approved listing of non-admitted companies. A Certificate of Deposit (CD) issued by a local Phoenix bank may also be used as a form of surety provided that the CD is issued jointly in the name of the City and the Contractor, and that the Contractor endorses the CD over to the City at the beginning of the contract period. Interest earnings from the CD can be retained by the Contractor.

2.27. 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.

2.28. Determining Responsiveness and Responsibility

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

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 (as the case may be) will render an Offer nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations, or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.

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

The Procurement Officer will review each Offer to determine if the Offeror is responsible. The City's determination as to whether an Offeror is responsible will be based on all information furnished by the Offeror, interviews (if any), and information received from Offeror's references, including information about Offeror's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Offeror's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.

2.29. Equal 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.

2.30. Evaluation of Competitive Sealed Offers

The City will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the optimal financial return to the City will prevail.

2.31. Detailed Evaluation of Offers and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except ~~price~~ the financial return to the City. The Procurement Officer will score the financial return to the City, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings, and which offers are within the Competitive Range, when appropriate.

2.32. Offers Not Within the Competitive Range

The City may notify Offerors of Offers that the City determined are not in the Competitive Range.

2.33. Discussions with Offerors in the Competitive Range

The City will notify each Offeror whose Offer is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Offeror. Each Offeror so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Offer. The Offerors in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at a designated City location. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If an Offer in the Competitive Range contains conditions, exceptions, reservations, or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations, or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Offeror to remove the conditions, exceptions, reservations, or understandings. If the Offeror fails to do so, the City may determine the Offer is nonresponsive, and the City may revoke its determination that the Offer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Offeror about other Offers received in response to this solicitation. During discussions with Offerors in the Competitive Range, the City will not give Offerors specific prices or specific financial requirements that Offerors must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace or otherwise unacceptable. Offerors will not be told of their relative rankings before Contract award.

2.34. Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Offeror in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Offer and make one BAFO.

If an Offeror's BAFO modifies its initial Offer, the modifications must be identified in the BAFO. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately the initial scores for criteria that have been affected by offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

3. SCOPE OF WORK

3.1. Introduction

The City of Phoenix (the “City”) on behalf of its Phoenix Convention Center Department (“PCCD”) is seeking to enter into a service agreement with a distributed antenna systems service contractor. The goal is to enhance cellular signal coverage in the North, West, and South Buildings, as well as Symphony Hall. The system shall be installed and operational by December 31, 2024.

With over 1,000,000 square feet of meeting and exhibit space, Phoenix Convention Center is located in downtown Phoenix, Arizona. It is made up of three buildings: the North Building, the West Building, and The South Building. Attached to the West Building is the 2,312-seat Symphony Hall. **(Floorplans are in Attachment C).**

3.2. Evaluation Criteria

In accordance with Administrative Regulation 3.10, award shall be made to the responsible and responsive proposer(s) whose proposal is determined to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are not listed in order of importance and more details are provided below.

Technical expertise and experience	0 - 350 POINTS
Operational efficiency	0 - 250 POINTS
Customer service	0 - 250 POINTS
Financial Return to the City	0 - 150 POINTS
TOTAL AVAILABLE POINTS :	0 - 1000 MAXIMUM

DESCRIPTION Points

A. Technical expertise and experience. 0 - 350 POINTS

Responses will be evaluated on the recommended approach that reflects:

1. Experience with a variety of DAS technologies and deployments.
2. Ability to meet the specific requirements of the project, such as the types of wireless carriers that will be using the system and the coverage areas that need to be addressed.
3. Proven track record of designing, installing, and maintaining DAS systems.
4. Familiarity with the latest industry trends and best practices
5. Use of innovative and cutting-edge technologies.
6. Commitment to quality and safety.

B. Operational efficiency 0-250 POINTS

The responses will be evaluated on the executive summary of its company resources, including the following:

1. Proven track record of operating and maintaining DAS systems efficiently.
2. Proven track record of low number of outages and high level of uptime.
3. Ability to meet or exceed uptime and performance requirements.
4. Use of remote monitoring and management systems.
5. Proactive maintenance practices

C. Customer service

0-250 POINTS

The responses will be evaluated on:

1. **Error! Hyperlink reference not valid.** - Years in Business and References.
2. Good reputation for customer service.
3. Responsive to PCCD needs.
4. Ability to resolve problems quickly and efficiently.
5. Willingness to work with PCCD to ensure that complete satisfaction with the system.
6. Availability of 24/7 support.

D. Financial Return to the City

0-150 POINTS

For and in consideration of Proposer's rights under the resulting Agreement, Proposer will agree to pay PCCD a percentage commission based on the gross receipts of all sales of services and labor made to PCCD and its clients.

Gross receipts are defined as follows: The aggregate amount of gross billing less taxes related to services rendered in and about the facilities managed by PCCD, whether for cash or credit and whether collected or uncollected.

Phoenix Convention Center Department Commission Rate will be at a minimum of 25%.

Proposer offers _____% of gross receipts.

- Complete the Financial Return to the City in a separate attachment marked, "Attachment A – Financial Return".

3.3. General

The successful respondent and associated subcontractor(s) shall provide the following installation services and equipment for a turnkey in-building neutral host distributed antenna system (NH-DAS) at the facility:

The Contractor shall:

- A. Provide a fully functional turnkey service to design, procure, install, commission, operate and maintain a Neutral Host Distributed Antenna System (NH-DAS) for PCCD that meets the requirements specified in this document. Services shall include the necessary

elements for a complete and fully functioning NH-DAS, including repairs, replacements and necessary upgrades and updates throughout the term of the agreement.

- B. Contract, onboard, integrate and provision all major commercial wireless services Contractors (WSPs), including AT&T, T-Mobile/Sprint, and Verizon on the DAS to provide enhanced cellular service for all customers in the North, South, and West Buildings, and Symphony Hall. It is critical that the Contractor is able to onboard all major WSPs listed above on the NH-DAS to make service improvements for PCCD users on day one of the system going live.
- C. Complete the initial implementation of the NH-DAS and go-live with WSPs on or before December 31, 2024.
- D. Be the single agent wholly responsible and accountable for all work and services to be performed under this project by it and its authorized contractors, subcontractors and other third parties, excluding that which is specifically identified as the responsibility of the City.
- E. Conduct operations in a professional, business-like manner so as to not create disruption for other projects or events at PCCD. The Contractor will not provide or sell any additional services not included in the Scope of Work.

3.4. TECHNOLOGY REQUIREMENTS

- A. The system shall support all commercial cellular spectrum, WSPs, cellular technologies and associated standards/wireless protocols. At a minimum the system shall support all major WSPs including AT&T, Verizon, and T-Mobile/ Sprint. The WSPs utilize various licensed spectrum to provide 3G, 4G and 5G services. The system shall also support any additional future WSPs who may be licensed to operate and choose to join the system. The system will support the following commercial cellular service spectrum at a minimum. It is the Contractor's responsibility to ensure all commercial spectrum used by WSPs is supported on the system:
 - 1. 600 MHz band
 - 2. 700 MHz band
 - 3. 800/850 MHz Cellular band
 - 4. 1900 MHz PCS band
 - 5. 1700/2100 MHz AWS band
 - 6. 2500 MHz mid band
 - 7. 28 GHz, 29GHz, 38 GHz, 39 GHz bands for dense mmWave 5G
- B. The system must support all 3GPP approved high speed technologies and modulation schemes including 3G, 4G and 5G. Contractor shall verify with WSPs whether any legacy technologies such as 3G need to be supported on the system. It is critical that the Contractor understands and meets varying requirements and implementations of newer technologies, particularly 5G, for various WSPs depending on the spectrum chosen to deploy 5G. System must also support 5G NR which is the new global standard for the air interface of 3GPP 5G networks.
- C. The system must support public safety communication equipment requirements as specified by the City.

- D. The System must support needed antenna diversity and beamforming for various technologies being supported. Some examples include 2x2 MIMO, Massive MIMO, Multi-user MIMO, etc. for high bandwidth and throughput. For the multiple meeting rooms, the Contractor shall provide less intrusive and discrete antenna technology.
- E. In addition to the day one provisioning of WSPs in their respective RF bands, the system will not restrict a WSP from operating and providing service on any additional RF band during the life of the contract. Each WSP will have access to each band for providing suitable service to end users. However, impact of such service on the existing capacity of the band will have to be addressed before a WSP can operate there.

3.5. COVERAGE AREAS

The system must at minimum cover the locations listed below. There are scaled maps of the coverage areas in **Exhibit B**. The Contractor is in charge of carrying out the appropriate survey(s) to pinpoint each of these locations. It is also the Contractor's duty to provide a complete solution that satisfies the coverage specifications.

- A. North Building:
 - 1. Ballrooms and Pre-function areas
 - 2. 1st and 2nd Level meeting rooms and surrounding areas
 - 3. North Kitchen area
 - 4. North Food Court
 - 5. 1M, 2M, and 3M Mezzanines
 - 6. 3rd Level Halls
 - 7. Lower-Level Halls and Pre-function Areas
 - 8. Lower-Level loading dock area
 - 9. Lower-Level storage area
 - 10. North Tunnel
- B. West Building:
 - 1. 3rd Level Ballrooms and Pre-function area
 - 2. 3rd Level Kitchen area
 - 3. 2A Employee Area
 - 4. 2A Air Handler Area
 - 5. 2A Storage Area
 - 6. Atrium
 - 7. 1st and 2nd Level meeting rooms and surrounding areas
 - 8. M1, M2, and M3 Mezzanines
 - 9. Lower-Level Halls and Pre-function Areas
 - 10. Lower-Level loading dock area
 - 11. West Tunnel
- C. South Building:
 - 1. 150 Meeting Rooms
 - 2. 160 Meeting Rooms
 - 3. Halls F and G
 - 4. Halls F and G Lobby
 - 5. South Ballroom and Lobby
 - 6. South Kitchen and surrounding areas

7. Mezzanine C, D, and F
8. Catwalk
9. Basement
10. Tunnel

D. Symphony Hall

1. Lobbies
2. Auditorium
3. Green room
4. Dressing Rooms
5. Found Space
6. Basement
7. Catwalk

3.6. QUALITY ASSURANCE

The Contractor shall:

- A. Ensure that all work performed meets the requirements and specifications in the RCS, Agreement, and governing standards.
- B. Hold a Project Kick off meeting with the City within 2 weeks of the Effective Date. Provide a preliminary project schedule within 2 weeks of the Effective Date with major design, construction and WSP integration activities. Provide a final detailed project schedule with all tasks and milestones for all phases of the project within 30 days of the Effective Date.
- C. Ensure that the firm designing and implementing the NH-DAS is certified by the DAS manufacturer to implement a multi-band, multi-operator NH-DAS. The submission shall include the resume for the RF engineer(s) of record and a listing of at least three (3) projects of a similar size and nature where the engineer(s) performed NH-DAS RF design and implementation. The Design and Installation team will be proficient in understanding of the current RF spectrum allocation, WSPs technologies and installation considerations for RF systems.
- D. Ensure all installation personnel are properly trained and experienced in conduit, fiber, and coaxial cable installation techniques.
- E. Ensure all installation work is accomplished in accordance with the applicable standards including but not limited to:
 1. City of Phoenix Building Code
 2. National Electric Code (NEC).
 3. Code of Federal Regulations (CFR) [Telecommunications] Title 47 Part 15.
 4. Code of Federal Regulations (CFR) [Telecommunications] Title 47 Part 22.
 5. Code of Federal Regulations (CFR) [Telecommunications] Title 47 Part 90.
 6. Association of Public Safety Communications Officers (APCO) "Avoiding Interference between Public Safety Wireless Communications Systems and Commercial Wireless Communications Systems at 800 MHz".

7. ANSI/TIA/EIA-568-B Commercial Building Telecommunications Wiring Standards.
8. ANSI/TIA/EIA-569-A Commercial Building Standard for Telecommunications Pathways and Spaces.
9. ANSI/TIA/EIA-606 Administration Standard for the Telecommunications Infrastructure of Commercial Buildings.
10. ANSI/TIA/EIA-607-Commercial Building Grounding and Bonding Requirements for Telecommunications.

It is the responsibility of the Contractor to ensure adherence to the latest versions of applicable standards.

- F. Fiber: PCCD requires that Contractor utilize industry standard and standard SC and LC fiber connectors and avoid DAS design that utilizes fusion splicing. Contractor must utilize a Corning Optical Communications certified contractor in order to retain existing warranty or recertify PCCD fiber plant if (a) it chooses to fusion splice PCCD provided fiber, or (b) it chooses to change the connectors on PCCD fiber to a type other than SC. Any new fiber installation will come with a standard 25-year warranty from Corning should the Contractor install new fiber as part of the project. Contractor shall utilize a Corning's Preferred Installers (NPI) member for such new fiber installation and provide evidence of their certification or approved equivalent. The warranty shall begin at the System Acceptance date and remain in effect for a period of twenty-five (25) years thereafter. The Contractor shall repair, adjust and/or replace any defective equipment, materials, or other parts of the installed fiber at Contractor's sole cost during the term of the Agreement. All third-party warranties shall be passed through from Contractor to the City.
- G. All equipment shall be rated for continuous operation under the ambient environmental temperature, humidity, and vibration conditions encountered at the install locations. Such locations may be environmentally controlled or uncontrolled, both indoors and outdoors.
- H. Ensure all electrically powered equipment is Underwriters Laboratories (UL) approved.
- I. All installation shall comply with Parts 15, 22 and 90, Federal Communications Commission (FCC) rules, pertaining to radiation limits and frequency usage both indoors and outdoors.
- J. Due to the rapid advancement and obsolescence of technology, any product purchased or supplied shall be the latest "version" or "release" of that product certified to work as part of the NH-DAS. This includes all equipment hardware, software, and firmware.
- K. Certify the system by providing a Certificate of Commissioning after completion of system implementation. This document shall certify that the installed system, including cabling, complies with the requirements herein.
- L. Conduct RF Site survey, as necessary, to establish baseline RF environment within the coverage areas in scope as part of the RF design process.

3.7. DESIGN AND PRE-INSTALLATION

After Award by City Council, the Contractor shall:

- A. Submit a detailed Project Management (PM) Plan by July 1, 2024. The PM plan shall contain the following at a minimum:

1. Detailed project schedule with planned and actual dates.
 2. Major milestones.
 3. Risk mitigation.
 4. Roles, responsibilities, and level of commitment of Key Personnel (Program/Project Manager, Lead RF Engineer(s), Systems Engineer(s), Lead Technicians).
- B. Submit a System Commissioning Plan by July 1, 2024, that describes the following at a minimum:
1. Minimum requirements for each WSP to connect to the DAS.
 2. How each WSP will be onboarded and connected to the DAS.
 3. How the entire system will transition into production and ongoing operations.
 4. How the DAS headend equipment will be turned up.
 5. How the system will be set up for remote management and monitoring.
 6. Process detailing the steps to make each WSP 'go-live' on the system.
- C. Provide all personnel, tools, equipment, materials, supplies, software, firmware, consumables, and transportation necessary to complete the Scope of Work herein.
- D. Submit all deliverables in this section for City's review and approval prior to implementation of the system. The City reserves the right to require revisions or changes at any point in the process before providing approval.
- E. Starting two weeks after the Effective Date, conduct bi-weekly project status meetings with the City and WSPs, at a minimum, and provide status reports to both parties. The reports should include project progress with percentage of tasks and subtasks completed, major milestones, issues, and proposed mitigation, scheduled changes and any other related information for the City to adequately assess the status of the project.
- F. Perform the system design as follows:
1. RF Design

RF design will be done using an industry standard software-based design and simulation/prediction tool. Examples of such tools include iBwave, Wireless Valley, etc. Propagation model shall be done for each of the desired RF bands and associated wireless technologies within that band. The model will show predicted coverage on City-provided floor plans for all coverage areas. The RF design will be done in two stages as follows:
 2. Initial RF Design

Initial RF design shall include coverage plots, carrier counts per technology per band per sector, power levels per RF carrier and composite power levels feeding the NH-DAS headend. Total number sectors per coverage area per WSP per technology will be included. Contractor shall submit the initial RF design to the City for approval after WSP approval.
 3. Final RF Design

Contractor shall obtain approval from the City on the initial RF design prior to submitting the final RF design. The final RF design shall be approved by all WSPs prior to submittal to the City. Final RF design shall include final RF configuration of the NH-DAS with coverage and quality prediction plots for all WSPs. Total number sectors per coverage area per WSP per technology will be included.

4. Installation Design

The installation design shall include construction design with architectural/engineering and electrical drawings submitted to the City for review and final approval and shall include both the NH-DAS headend and downstream equipment. Any architectural and engineering drawings shall be submitted to the City at the following intervals as part of the overall design and construction process:

- a. 60% progress / review set.
- b. 90% progress / review set.
- c. Addendums and corrections (as necessary during construction).

Contractor shall submit 100% PE stamped construction set drawings for obtaining necessary permit(s) from the City prior to installation.

The installation design shall be based on the RF design. Both the RF and installation design shall be approved by the City after approval by each WSP. The

Contractor will obtain necessary approvals from the City for the aesthetics relative to antennas.

- G. The RF and Installation Design and necessary permitting required by Contractor shall take no longer than 6 months into the Initial Term to allow for maximum time for implementation of the system.
- H. The RF design shall show the predicted RF coverage in the desired area for the said metrics in the form of heatmap coverage plots showing various levels of signal strength and quality metrics, as applicable, overlaid on the floor plan for the worst-case band.
- I. The design shall also indicate the uplink and downlink RF Link Budget from end to end for each zone or coverage area.
- J. The DAS design shall incorporate current industry technology trends and, where possible, consolidate both the NH-DAS headend equipment as well as WSP equipment footprint. Contractor is encouraged to consider design approaches such as baseband headend connection to NH-DAS, end to end digital design, etc., if possible, to minimize or eliminate the need for traditional WSP base station equipment and downstream NH-DAS infrastructure which pose significant space, HVAC, power, and fiber capacity demands. PCCD will supply a list of potential locations of the NH-DAS headend room.
- K. Installation design shall include quantity of fiber required to support the final system design for all WSPs. This will include both the backhaul fiber between NH-DAS headend room and IT core rooms as well as fiber between core rooms and downstream IDF rooms.
- L. The City will make fiber available for use by the Contractor. However, the City does not provide any guarantee that the available fiber will be sufficient for the scope of work, herein. Additionally, the City makes no assurances or guarantees on the performance and state of the available fiber. If any existing fiber fails, it will be replaced or repaired at the sole cost of

the Contractor. It is the Contractor's responsibility to procure and install any additional fiber necessary to meet all requirements in the scope of work. The ownership of any and all fiber or coaxial cable installed by the Contractor shall transfer to PCCD after the Agreement expires. It is the Contractor's responsibility to provide any and all fiber from the IDF rooms to any edge (radio) devices in the field.

- M. Utilize industry standard AutoCAD program to perform the Installation Design of the system including the layout of all cable, fiber, and equipment. Both Preliminary and Final Installation Design shall be done using AutoCAD showing names, paths and lengths of cable, fiber, equipment, jumpers, etc. to be used for actual installation. Such information will be presented in separate layers on the AutoCAD drawings.
- N. Be responsible for storage of all purchased equipment and materials. Equipment and materials during daily installation phase shall also be stored by the Contractor.
- O. Provide the protection necessary to safeguard its own work from damage either by its own operations or the operations of others.
- P. Provide all the drawings, permits and licenses necessary to perform the system implementation. This will include the stamped PE (Professional Engineering) and any other drawings necessary for design and installation of the system.
- Q. Obtain written permission from the City before proceeding with any work which requires cutting into or through any part of the building structures such as, but not limited to, girders, beams, concrete, carpeted or tiled floors, roof partitions or ceilings, anywhere the fireproofing or moisture proofing could be impaired, or the area surrounding the building where such actions could potentially impact the facility, supporting infrastructure or entrance facilities. Contractor will be responsible to complete any necessary repairs to building structures, facilities or surrounding area affected as a result of the DAS installation.
- R. Once the installation design is finalized and approved, Contractor shall submit to the City product cut sheets of the DAS equipment for familiarity of the solution being installed.
- S. Design, build and furnish the DAS headend room with power, HVAC, fire suppression and any other improvements needed to support the DAS head end and WSP head end equipment. Contractor shall submit detailed engineering/electrical drawings showing for review and approval by the City prior to commencing construction within the DAS headend room.
- T. Provide any and all improvements, including but not limited to, providing adequate power needed in IT rooms used for housing DAS equipment.

3.8. Installation

The Contractor has the responsibility to complete all system implementation. The Contractor shall:

- A. Begin installation only after approval of the Final RF Design and 100% Installation Design by the City.
- B. Install any additional fiber beyond what is made available by the City to meet the requirements in the Scope of Work.
- C. Provide, install, terminate, and connect all required fiber, in addition to that provided by the City to deliver a turnkey HD-DAS that meets all requirements specified in the Scope of Work.
- D. Ensure that all work performed under this Scope of Work is accomplished in accordance with applicable standards included herein.

- E. Follow manufacturer's installation guidelines and any additional guidelines specific to the system per the associated exhibits.
- F. Install all equipment and materials in a neat and workmanlike manner, in accordance with accepted industry practices, by competent technicians.
- G. Facilitate inspection of sample installations by designated City personnel to determine conformance to all City standards and requirements in this document. Such approval shall be limited in scope to the specific physical installation and shall not be construed to imply any form of acceptance of a system or subsystem.
- H. Place materials only in those locations that have been previously approved. Any deviation from these locations must be approved in writing by the City.
- I. Install NH-DAS components, including all hardware, cable, connectors, etc., as required to comply with instructions, with recognized EIA/TIA and other relevant industry standards, and the final design drawings and specifications.
- J. Ensure that coaxial cable conforms to the product installation guidelines. Special care must be taken not to exceed the specified bending radius at any time during installation.
- K. Perform tests for VSWR (Voltage Standing Wave Ratio), continuity, shorts, reversals, and ground, where applicable, of completed RF coaxial cable sections for faults prior to connecting to mainline equipment in IDF rooms. This shall include a sweep test of all coaxial cable after the cable is installed. All coaxial cable installed shall pass tolerance limits based on the final RF design and link budget.
- L. Ensure that cables are properly routed, supported, secured to approved mounting surfaces, and labeled at all locations. No hand labeling will be allowed. All assigned strands shall be labeled accordingly in conjunction with existing label schema and be provided to PCCD IT Section. The final leg of coax connections from the radio/remote unit to the antenna in the ceiling may be installed without a conduit. Such connections shall not exceed 20 feet long jumpers at any location. Such cable jumpers will still need to be supported by adequate means as permitted by City standards above the ceiling.
- M. Ensure that DAS equipment installation in City-assigned rooms is consolidated within a rack or cabinet as much as possible to maximize use of limited space available.
- N. Retain warranty of PCCD's existing fiber infrastructure, all network fiber patching will be performed by the City's IT Department, whereas all splicing will be completed by certified contractor. Contractor may utilize one of the City's existing fiber installers authorized to perform work at PCCD.
- O. Install coaxial cable and coax jumpers in a manner to keep their length to a minimum between the fixed equipment on both ends while also ensuring the coaxial cable in the ceilings will have sufficient 'slack loop' to allow for relocation of remote units/radios or antennas in future around that location.
- P. Where possible, install all remote DAS components in consolidated clusters above ceilings to minimize spreading them around throughout the coverage area. Likewise, install all antennas in consolidated clusters while following RF interference requirements to minimize spreading them throughout the coverage area.
- Q. At Contractor's discretion utilize current roof penetrations or punches upon written approval by PCCD Facilities & Services. If for any reason, the existing roof penetrations cannot be utilized then the contractor must provide these penetrations at their own costs.

These penetrations must be approved in writing by PCCD Facilities & Services prior to any work commencing on the project.

- R. Ensure that Contractor does not damage existing fiber, cable or other equipment from any installation work performed directly by the Contractor or by one of its contractors or subcontractors. Special care must be taken when installing new fiber or cable in existing pathways or conduit. Contractor shall be responsible for fixing, restoring, or remediating any issues or damage it causes to existing PCCD systems or infrastructure while performing work under the Agreement.
- S. At the end of the Agreement, return all installed components, systems, and software that are part of the DAS, except for WSP-owned equipment to the City, who shall retain the same as City property. Agreements with the WSPs shall be transferable to the City upon the termination of the Agreement between the Contractor and the City.

3.9. Acceptance

- A. Acceptance of the system shall take place after:
 - 1. Inspection and approval by the City of all installation work to verify all work meets applicable code and standards.
 - 2. Approval of successful completion of Acceptance Testing by the Contractor once approved by each WSP, as defined below.
- B. Acceptance testing for the implemented system shall include the following:
 - 1. System Acceptance Test (SAT) - The purpose of this test is to ensure that system specifications and technical requirements have been met. The test will verify system design, architecture, management, monitoring and security features.
 - a. The test shall include identification of expected signal levels (RF and optical) at each active and passive component and define allowed variation from expected levels. Performance of the test shall include documentation of actual signal strength measurements and identifying variance from predicted levels as shown in the design.
 - b. The Contractor shall test all cables using appropriate cable testing devices. Coaxial cable test results shall be approved by the Contractor. Coaxial cables shall be tested for VSWR, continuity, shorts, reversals, and grounds, where applicable. This shall include a sweep test of all coaxial cable after the cable is installed. All fiber shall be tested from end to end for total loss and optical link budget.
 - 2. Coverage Acceptance Test (CAT) - This test shall verify that the system meets the coverage and quality requirements described in System Specifications. The test results shall be submitted to each WSP for review and approval. After the approval by WSPs, Contractor shall submit the test results to the City for review and approval. The Contractor shall conduct walkthrough of the entire coverage area and collect coverage data for each of the supported bands in two stages.
 - a. Continuous Wave (CW) testing will be conducted where an unmodulated carrier frequency will be used as the test signal in each band supported. The power level of the CW signal used shall be the same as the one designed for the actual live RF carrier.

- b. Live RF Carrier testing will be conducted where the actual operating frequency for each of the WSP's technology will be used as live test signal in each band. The CW testing must pass before this test can start. The Contractor will need to connect the WSPs to the DAS headend before this test can be conducted. The test will be performed for each WSP offering service in a specific RF band and will validate the Final RF design. This test will verify coverage and quality metrics per WSP per band per technology. It will also include verification that handoffs between DAS sectors and in some cases with macro networks for each WSP meet design criteria. Contractor will work with each WSP to ensure their service on DAS is fully optimized to facilitate handoffs per design.

For both CW and Live RF carrier testing, the Contractor shall utilize an industry standard software-based coverage testing tool (for example, iBwave, Wireless Valley, etc.) for automated data collection overlaid on a floor plan.

3. Endurance Test The purpose of this test is to ensure that the implemented system is stable and functions without any issues for 30 consecutive days before final acceptance. The endurance test shall test the system with final WSP configuration and capacity loads. If any major issues occur during the test that cause service outage(s), the test will restart in its entirety from the day the issue(s) has been resolved.
4. The data collected in both CW and Live RF Carrier coverage tests shall be provided to the City as coverage plots with heat maps.
5. For failed tests, the Contractor shall make appropriate remediation, re-test and submit new test results.
6. Contractor shall coordinate with WSPs to ensure any specific acceptance testing requirements are included in testing scope.

3.10. COMMISSIONING

- A. The DAS shall be commissioned after successful acceptance as defined in above Section 3.8 Acceptance.
- B. Commissioning will mark the entire system moving from an implementation and test phase to a production/operations phase where it will carry live traffic from wireless service Contractors and serve PCCD customers.
- C. The Contractor shall submit a Commissioning Plan for review by the City that describes the following at a minimum:
 1. Minimum requirements for each WSP to connect to the DAS.
 2. How each WSP will be onboarded and connected to the DAS.
 3. How the entire system will transition from installation to production and
 4. ongoing operations.
 5. How the DAS headend equipment will be turned up.
 6. How the system will be set up for remote management and monitoring.
 7. Process detailing the steps to make each Contractor 'go-live/on-air' on the system.

Onsite support and activities needed to successfully commission the system.

3.11. ONGOING OPERATION AND MAINTENANCE

The Contractor shall:

- A. Operate and maintain the NH-DAS after acceptance by City including, but not limited to:
 1. Guaranteeing a weekly availability/uptime of 99.9% of the system using commercially reasonable measures. The proportion of time (in minutes) that the designated system components are available over the course of a week or month constitutes uptime.
 2. Keeping all headend and remote equipment up and running at all times.
 3. Providing all components, equipment, supplies, tools, and labor required for operation and maintenance.
 4. Conducting all repairs and maintenance to maintain proper working condition, in accordance with performance specifications.
 5. Installing all software and firmware updates.
 6. Keeping the system hardware, software, and firmware up to date.
 7. Providing monthly performance and usage reports due the 15th of the following month. The reports will constitute of at least the following:
 - a. Monthly Uptime of the system
 - b. Monthly outage report with all the service outages
 - c. Usage reports
 - d. System performance report
- B. Repair or replace any equipment that fails to operate per the design specifications, or malfunctions, for the term of the contract.
- C. Utilize a formal Change Management or Change Control process to make any changes to the operational NH-DAS after go-live. The Contractor shall provide notifications to PCCD for all scheduled and emergency maintenance that causes service outage or degradation. In addition, the Contractor shall also notify the WSPs of such notifications.
- D. Operate the NH-DAS on a 24x7 basis during the term of the Agreement.
- E. Provide monitoring, maintenance, and repair services on a 24x7x365 basis. Contractor shall provide a toll-free number for its Network Operations Center (NOC) support for WSPs and PCCD to report service issues in the Submittal section, Notices and Contacts, Emergency 24-Hour Contact.
- F. Contractor shall provide the response and resolution times for the following service impact scenarios:
 1. Critical impact: A critical outage is defined as one that causes the entire DAS or multiple coverage zones service outages for one or more WSPs.

2. Major impact: A major outage is defined as one where a single DAS zone is experiencing outage or WSPs are impacted but they continue to provide service due to a workaround.
 3. Minor impact: A minor impact is defined as one where the NH-DAS is experiencing limited degradation of service and a select number of end users are impacted.
- G. Conduct routine monitoring to ensure continuous service levels consistent with performance specifications, and as demonstrated during the verification testing and acceptance.
 - H. Schedule all maintenance and repair, which may result in critical or major outages, between 12:00 a.m. and 5:00 a.m. Arizona time when activity is at a minimum. Emergency maintenance and repairs to restore service can be performed at any time with a notification sent to PCCD and the WSPs. However, service repair in public areas during events might be limited.
 - I. Provide event notifications and group management of components in the DAS. City and the WSPs shall be capable of receiving specific event notifications based on priority of events.
 - J. Coordinate with PCCD and other stakeholders regarding future adds/moves/changes and construction activities which may impact DAS antennas or other field equipment. Contractor shall be solely responsible for any temporary relocations or adjustments and final antenna, cabling, or equipment placements to facilitate such remodeling and constructions within the PCCD environment.

3.12. CLOSE OUT

This section describes the ending of the project. Administrative activities include providing as-built documentation, contract closure and documenting lessons learned.

- A. The Contractor shall provide all as-built documents in electronic format to the City. The following documentation is required for review and approval by the City. Final As-Built Drawings will contain the following in AutoCAD format:
 1. Detailed Design revised to reflect "as installed" conditions. This will contain both final RF and Installation Design. The RF drawings shall be reviewed and stamped by a RF Engineer prior to submittal to the City. The Installation drawings shall be reviewed and stamped by a Professional Engineer prior to submittal to the City.
 2. Floor plan drawings indicating all device locations, with device legends, names, all cable and fiber routes, and signal strength reading using appropriate test devices. These shall reflect the true "installed" conditions.
 3. Rack elevations showing installed equipment in IDF/MDF/DAS headend rooms.
 4. Final bill of materials (BOM) necessary to support the wireless technologies as requested by the carriers during the contract term.

3.13. CITY RESPONSIBILITIES

- A. Provide fiber that can be allocated for this project in various IDF/MDF rooms throughout the Convention Center Campus.
- B. Provide space for the DAS headend equipment and WSP headend equipment.

- C. Provide space in the various PCCD's IDF/MDF rooms for installation of NH-DAS equipment by the Contractor. However, the City does not guarantee that all IT rooms selected by the Contractor in its Installation Design will have space available for use. City will make available to the Contractor available space within designated IT rooms. It will be the Contractor's responsibility to select alternative IT rooms to meet the design requirements.

3.14. ASSUMPTIONS

- A. PCCD has a quantity of fiber for backhaul throughout the campus that is available for use by the Contractor. Contractor is responsible for installing any additional fiber needed to meet the requirements in the Scope of Work and System Specifications.
- B. The existing City IDF/MDF rooms will have sufficient space and power to host the new equipment. Should the space or power in such a room not be enough to accommodate new equipment, the Contractor shall use another existing IT room in coordination with the City or install needed power for the NH-DAS equipment.
- C. Optimal ceiling antenna locations will be available for use so as to provide maximum coverage and minimum number of antennas.
- D. The Contractor and WSPs will work cooperatively to optimize the NH-DAS and macro networks to obtain the desired performance of the NH-DAS. It is the responsibility of the Contractor to coordinate this activity.

4. STANDARD TERMS AND CONDITIONS

4.1. Definition of Key Words Used in the Solicitation

Will, Must, Shall: 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 Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror 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

"Contract Administrator" Shall refer to the contract administrator as designated by the Director.

"Contract Manager" Shall refer to a staff member designated by the Director.

"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" Means calendar days unless otherwise specified.

"Chief Procurement Officer" 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).

"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.

"PCCD" Phoenix Convention Center Department

“Solicitation” Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed Offers, Revenue Contract Solicitation (RCS) 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, Offers, 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.

4.2. Contract Interpretation

- A. **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.
- B. **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:
1. Federal terms and conditions if any
 2. Special terms and conditions
 3. Standard terms and conditions
 4. Amendments
 5. Statement or scope of work
 6. Specifications
 7. Attachments
 8. Exhibits
 9. Instructions to Contractors
 10. Other documents referenced or included in the Solicitation
- C. **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.

- D. **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.
- E. **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 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.
- F. **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.

4.3. Contract Administration and Operation

- A. **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 Contractor has in place.
- B. **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.

C. 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.

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.

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 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. **Documentation:** Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.
 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.
- D. **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:
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.
 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. 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.
- E. **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:
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.
 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. 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).

- F. **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.
- G. **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 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.
- H. **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.

4.4. Contract Changes

- A. **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.
- B. **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.
- C. **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.

4.5. Risk of Loss and Liability

- A. **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.
- B. **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.
- C. **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.
- D. **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 City.
- E. **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. 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.

- F. **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.

4.6. City's Contractual Rights

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.

- A. **Non-Exclusive Remedies:** The rights and remedies of the City under this Contract are non-exclusive.
- B. **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.
- C. **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.
- D. **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 Solicitation and/or Performance Bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- E. **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.
- F. **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.
- G. **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.

4.7. Contract Termination

A. **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.

B. **Conditions and Causes for Termination:**

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

C. **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.

4.8. 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 Contractor 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>. 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 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.

4.9. Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, 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.

4.10. 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.

4.11. No Israel Boycott

If this Contract is valued at \$100,000 or more and requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, or construction, then Contractor must certify and

agree that it does not and will not boycott goods or services from Israel, pursuant to Title 35, Chapter 2, Article 9 of the Arizona Revised Statutes. Provided that these statutory requirements are applicable, Contractor by entering this Contract now certifies that it is not currently engaged in and agrees for the duration of the Contract to not engage in, a boycott of goods or services from Israel.

4.12. No Forced Labor of Ethnic Uyghurs

If this Contract requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, goods, or construction, then pursuant to Title 35, Chapter 2, Article 10 of the Arizona Revised Statutes Contractor must certify and agree that it and any contractors, subcontractors, or suppliers it utilizes do not and will not use the forced labor of ethnic Uyghurs in the People's Republic of China or any goods or services produced by such forced labor. Provided these statutory requirements are applicable, Contractor, by entering this Contract, now certifies it is not currently engaged in, and agrees for the duration of the Contract to not engage in, (a) the use of forced labor of ethnic Uyghurs in the People's Republic of China; (b) the use of any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (c) the use of any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

4.13. Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Agreement or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Agreement shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

4.14. 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.

4.15. 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.

5. SPECIAL TERMS AND CONDITIONS

5.1. Term of Contract

The term of this Contract will commence on or about July 1, 2024, and will continue for a period of **five (5) years** thereafter. This Contract includes **one (1) five-year option** to extend the term, for an aggregate **ten (10) years**, which may be exercised by the sole discretion of the City.

5.2. Supplier Profile Changes

It is the responsibility of the Contractor to promptly update their profile in procurePHX at <https://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.

5.3. Suspensions of Work

The City reserves 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.

5.4. Hours of Work

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

5.5. Post Award Conference

A post-award conference will be held 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.

5.6. Performance Interference

Contractor shall notify the City's authorized Department representative immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.

5.7. 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.

5.8. Liquidated Damages

If the Contractor fails to deliver the supplies or perform the services within the time specified in its contract, or any extension thereof, the actual damages to the City for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, the Contractor shall pay to the City as fixed, agreed, and liquidated damages for each calendar day of the delay, the amount of \$1,000.00. The City may terminate this contract in whole or in part as provided in the "Default" provision. In that event, the Contractor shall be liable for such liquidated

damages accruing until the City may reasonably obtain delivery or performance of similar supplies and services. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond its control and without fault or negligence, as determined by the City. The Chief Procurement Officer will be the sole judge in determining the liquidated damages.

5.9. Commission Reports

Contractor shall submit a monthly report in an electronic format acceptable to the City during the term of this contract commencing one month after the effective date. These reports are due by the **fifteenth** day of the month following the reporting period. Total **commissions must** be shown on a separate line. Report should be rounded to the nearest dollar. Contractor will provide sample forms for approval by the City.

5.10. Single Source for Warranty Work

Contractor shall be fully responsible for all warranty work. In addition, Contractor shall have or establish a single local Phoenix source that will accomplish or coordinate any necessary warranty work. Contractor shall respond to requests for repairs within **4-hours** after a verbal request by the City.

5.11. Warranty

Contractor warrants the hardware, software, application(s), or other technology assets provided to the City pursuant to this contract (collectively, the "Technology Assets"), for a period of one year starting with the date of final acceptance (the "Warranty Period"), to be substantially free of any condition which would make the Technology Assets fail to perform in material accordance with the requirements set forth in this Agreement, including any statement-of-work or scope-of-work document (each such condition to be considered an "Error"). Contractor specifically warrants that all software Technology Assets shall be free of any condition which could make them fail to perform in material accordance with this agreement (each such condition to also be considered an "Error") for a period of nine months after actual installation of the software. If the City reports to Contractor any errors in the system during the Warranty Period, then Contractor shall, at its expense, use reasonable commercial efforts to modify, replace, or otherwise remedy the faulty hardware, software, electrical component, or other Technology Assets as quickly as reasonably practicable. Where possible, both parties shall attempt to resolve Errors through telephone instruction, issuance of updated documentation, corrective code, or hardware replacement or modification.

STANDARDS AND PRACTICES:

Technology Assets shall conform to the generally accepted standards and practices of the trade or industry involved. All work shall be executed by personnel skilled in their respective lines of work.

QUALIFICATIONS:

Contractor represents that it is fully experienced and properly qualified; is in compliance with all applicable license requirements; and, is equipped, organized, and financed to provide and/or perform the goods and/or services purchased by the City pursuant to this agreement.

INTELLECTUAL PROPERTY WARRANTIES:

Contractor warrants that:

- A. The Technology Assets will be free of the rightful claim of any third party for or by way of infringement or misappropriation of patent, copyright, trade secret, trademark or other rights arising under the laws of the United States;
- B. No act or omission of Contractor will result in a third party holding any other claim that interferes with the City's enjoyment or use of the Technology Assets;
- C. Contractor owns or possesses all right(s), title(s) and license(s) necessary to perform its obligations hereunder; and
- D. As of the effective date and throughout the term of this Agreement, Contractor has not conveyed and will not convey any rights or licenses to any third party regarding the Technology Assets, except to the extent the Technology Assets consist of commercial-off-the-shelf or similar software product(s).

5.12. Equipment Installation

All equipment shall be completely assembled and installed by the Contractor and ready for use on the City's property at Phoenix Convention Center North and West Buildings, 100 North Third Street, Phoenix, Arizona 85004, Phoenix Convention Center South Building, 33 South Third Street, Phoenix, Arizona 85004, and Symphony Hall, 75 North Second Street, Phoenix, Arizona 85004.

5.13. Industry Standards

It is intended that the manufacturer in the selection of components will use material and design practices that are the best available in the industry for the type of operating conditions to which the item will be subjected. Component parts shall be selected to give maximum performance, service life and safety and not merely meet the minimum requirements of this specification. All parts, equipment and accessories shall conform in strength, quality of material and workmanship to recognized industry standards.

The term "heavy duty" if used in these specifications shall mean that the item to which the term is applied shall exceed the usual quantity, quality, or capacity supplied with standard production items and it shall be able to withstand unusual straining, exposure, temperature, wear, and use.

The City reserves the right to waive minor variations if, in the opinion of the City's authorized Department representative, the basic unit meets the general intent of these specifications.

The product offered shall not include a major component that is of a prototype nature or has not been in production for a sufficient length of time to demonstrate reliability.

If the specifications stated herein for component items do not comply with legal requirements, the Contractor shall so notify the City prior to the offer opening due date.

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

5.15. New Equipment

All items offered shall be new equipment supplied from the manufacturer. Offers for remanufactured/refurbished equipment will be considered as non-responsive and rejected.

5.16. Removal and Trade-In of Equipment

Trade-in equipment offered in this solicitation will be as-is, where-is with no warranty either expressed or implied as to current condition. All costs, labor, and equipment required for the removal will be the responsibility of the Contractor.

5.17. 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.

5.18. Contract Manager

Department Contact: Kouami Afanou, Senior Information Technology System Specialist
Department Contact Address: 100 N 3rd Street Phoenix, AZ 85004
Phone: (602) 534-6652
Email: kouami.afanou@phoenix.gov

5.19. Contract Administrator

Department Contact: Doug Hayes, Contracts Specialist II
Department Contact Address: 100 N 3rd Street Phoenix, AZ 85004
Phone: (602) 495-7165
Email: doug.hayes@phoenix.gov

5.20. Contractor Assignments

The 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 Chief Procurement Officer or his authorized representative, the Contractor may be requested to perform the additional or special service.

5.21. Final Inspection and Approval

The Contractor will request the City's authorized Department representative to conduct a site inspection after the project is complete. City's authorized Department representative will prepare a "punch-list" during the inspection and will forward a copy to the Contractor.

After the "punch-list" items have been corrected, the Contractor will request a final inspection with the authorized Department representative. Final project approval is contingent upon the City authorized Department representative's final inspection and written approval.

5.22. Pre-Construction Conference

A pre-construction conference will be held by the City's authorized Department representative 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.

5.23. Specifications

The specifications and/or drawings associated with this project are intended to generally describe a complete installation. Any additional materials or labor required for the complete project as intended shall be provided by the Contractor, even if it has not been detailed in this document.

5.24. Storage Space

The Contractor may store supplies, materials, and equipment in a storage area on the City facility premises designated by the City's authorized Department representative during work. The Contractor agrees to keep its portion of this storage area in accordance with all applicable fire regulations. The use of City storage facilities will be on a space available basis and subject to the approval of the City's authorized Department representative.

No materials or equipment will be stored or temporarily set in restrooms, under stairwells or other spaces accessible to the public. Hazardous chemicals such as solvent based strippers and cleaners will not be stored on City property.

If storage is in an electrical closet, a minimum of 36 inches shall be provided in front of all electrical panels. The width shall be a minimum of 30 inches or the width of the panel. The width of working space in front of the electrical equipment shall be the width of the equipment or 30 inches, whichever is greater. In all cases, the workspace shall permit at least a 90-degree opening of equipment.

5.25. Transition of Contract

At least 60 days prior to the expiration or termination of this contract Contractor must provide all services necessary to ensure an orderly and efficient transition of the services, in whole or in part, to another provider and the City, including a transition plan, if required by the scope. Contractor will, without limitation, provide important information to the successor Contractor and the City to ensure continuity of service at the required level of proficiency. Contractor agrees to provide to the City all files in ASCII format (or other city-designated format), supplies, data, records, and any other properties or materials of the City, which the City owns or has rights to pursuant to this contract and which are in the possession of Contractor. The provisions of this section will survive the expiration or termination of this contract. Within the

City's sole discretion, the Contractor agrees to a month-to-month extension at the same price(s) for continued services or goods deemed as essential by the City.

5.26. Types of Work Supervision

The 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.

5.27. Background Screening

Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules, and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety, and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

5.28. Background Screening Risk Level

The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges.

5.29. Terms of This Section Applicable to all Contractor's Contracts and Subcontracts

Contractor will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.

5.30. Materiality of Background Screening Requirements; Indemnity

The background screening requirements are material to City's entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify, and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent, and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

5.31. Continuing Duty; Audit

Contractor's obligations and requirements will continue throughout the entire term of this Agreement. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's records.

5.32. Variances and Exemptions

Contract Workers who fall under the following areas may be considered exempt from this policy:

- A. Federal Homeland Defense Bureau.
- B. Transportation Security Administration.
- C. Federal Aviation Administration.
- D. Department of Public Safety (DPS) Administration – presenting a current Level One Department of Public Safety fingerprint card.
- E. Arizona or other State Bars.
- F. Other background checks performed within the last three to five years may be approved if they fit all required criteria herein, at the City's discretion.

5.33. Contractor's Default; Liquidated Damages; Reservation of Remedies for Material Breach

If Contractor is required to access any City facilities without an escort, City badging is required. Contractor's default under this section will include, but is not limited to, the following:

- A. Contract Worker gains access to a City facility(s) without the proper badge or key;
- B. Contract Worker uses a badge or key of another to gain access to a City facility;
- C. Contract Worker commences services under this agreement without the proper badge, key, or background screening;
- D. Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key, or applicable background screening; or
- E. Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation, or termination of this Agreement.
- F. Contractor acknowledges and agrees that the access control, badge, and key requirements in this section are necessary to preserve and protect the public health, safety, and welfare. Accordingly, Contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this section will constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the Contractor will be liable for and pay to the City the sum of \$1,000.00 for each breach by Contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this agreement if Contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages if

Contractor breaches this section. The parties further agree that three breaches by Contractor in this section arising out of any default within a consecutive period of three months or three breaches by Contractor in this section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this agreement by Contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

5.34. Employee Identification and Access

Contract Workers are forbidden access to designated restricted areas. Access to each building will be as directed by the authorized Phoenix authorized representative. Contract Workers are not authorized access other than during scheduled hours. Access to the building will be directed by the City's authorized representative.

Only authorized Contract Workers are allowed on the premises of the City facilities/buildings. Contract Workers are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contract Worker.

Unless otherwise provided for in the scope of work:

- A. Contract Workers must always have city issued badges and some form of verifiable company identification (badge, uniform, employee id).
- B. Contractor will supply a list of the names and titles of all employees requiring access to the buildings. It is the Contractor's responsibility to provide updates and changes of personnel as necessary.

5.35. Key Access Procedures

If the Contractor Worker's services require keyed access to enter a City facility(ies), a separate key issue/return form must be completed and submitted by the Contractor for each key issued. Contractor must submit the completed key issue/return form to the appropriate badging office.

5.36. Stolen or Lost Badges or Keys

Contractor must immediately report lost or stolen badges or keys to the City's appropriate badging office. If the badge/key was stolen, Contract Worker's must report the theft to their local police department. Prior to issuance of a new badge or key, a new badge application or key issue form must be completed, submittal of a police department report for stolen badges, and applicable payment of the fee(s) listed herein.

5.37. Return of Badge or Key

All badges and keys are the property of the City and must be returned to the City at the badging office within one business day (excluding weekends and City holidays) of when the Contract Worker's access to a City facility is no longer required to furnish the services under this agreement. Contractor will collect a Contract Worker's badge and key(s) upon the termination of the Contract Worker's employment; when the Contractor Worker's services are

no longer required at a City facility(s); or upon termination, cancellation, or expiration of this agreement.

5.38. Badge and Key Fees

The following constitute the badge and key fees under this agreement, which shall be paid for at the Contractor's sole cost and expense, unless otherwise provided for in the scope of work. The City reserves the right to amend these fees upon a 30-day prior written notice to Contractor.

Initial Badge Fee: \$55.00 per application

Replacement Badge Fee: \$55.00 per badge

Lost/Stolen Badge Fee: \$55.00 per badge

Replacement Key Fee: \$55.00 per key

Replacement Locks: \$55.00 per lock

5.39. Background Screening – Maximum Risk

- A. **Determined Risk Level:** The current risk level and background screening required is MAXIMUM RISK.
- B. **Maximum Risk Level:** A maximum risk background screening will be performed every five-years when the Contract Worker's work assignment will:
1. work directly with vulnerable adults or children, (under age 18); or
 2. any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or
 3. unescorted access to:
 - a. City data centers, money rooms, high-value equipment rooms; or
 - b. unescorted access to private residences; or
 - c. access to critical infrastructure sites/facilities; or
 - d. direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.
- C. **Requirements:** The background screening for maximum risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the State of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire. In addition, Maximum screening levels may require additional checks as included herein, depending on the scope of work, and may be amended if the scope of work changes.

5.40. Maximum Risk Background Check for Child Care Staff Member

- A. A Federal Bureau of Investigation fingerprint check using Next Generation Identification;
- B. A search of the National Crime Information Center's National Sex Offender Registry; and
- C. A search of the following registries, repositories, or databases in the State where the childcare staff member resides and each State where resided during the preceding five years:
 - D. State criminal registry or repository, with the use of fingerprints being:
 - 1. Required in the State where the staff member resides;
 - 2. Optional in other States;
 - 3. State sex offender registry or repository; and
 - 4. State-based child abuse and neglect registry and database.

5.41. Contractor Certification; City Approval of Maximum Risk Background Screening

Unless otherwise provided for in the Scope of Work, Contractor will be responsible for:

- A. determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,
- B. submitting pass/fail results to the City for approval; and,
- C. reviewing the results of the background check every three to five years, dependent on scope; and,
- D. to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- E. Submitting the list of qualified Contract Workers to the contracting department; and,
- F. If, upon review of the background information, the City will advise the Contractor if it believes a Contract Worker should be disqualified. The Contractor will evaluate the Contract Worker and if the Contractor believes that there are extenuating circumstances that suggest that the person should not be disqualified, the Contractor will discuss those circumstances with the contracting department. The contracting department decision on disqualification of a Contract Worker is final.
- G. For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
- H. By executing this agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current.

- I. The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
- J. The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Contractor, or any contracted agency that assists with review, after the City’s completed review.
- K. By executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all such background screening requirements for the maximum risk background screening, and verified legal worker status, as required.
- L. Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the City’s written acceptance of Contract Worker’s maximum risk background screening. The City may, in its sole discretion, accept or reject any or all the Contract Workers proposed by Contractor for performing work under this Agreement. A Contract Worker rejected for work at a maximum risk level under this agreement will not be proposed to perform work under other city contracts or engagements without city’s prior written approval.
- M. The Contractor will submit prior to scheduling any services, a current list of names, addresses, and social security numbers of all employees requiring access to the facility. The Contractor is responsible for obtaining security clearance from the Police Department for all employees. The City reserves the right to change the restricted areas as needed. The Contractor grants the rights to the Police Department to conduct background checks of all employees entering the building. All employees will submit to the background check before access to the facility is given.
- N. The background checks will be conducted prior to any employee entering to work and will be based upon information provided to the Police Department including, but not limited to: name, address, date and place of birth, social security number, INS number if applicable, and a copy of a valid photo identification. The information will be provided to the City’s authorized Department representative at least five business days (excluding weekends and holidays) in advance of the need for access. The form will be provided by the City’s authorized Department representative. The City’s authorized Department representative will conduct the security check.
- O. The City may, at any time, in its sole discretion, refuse to allow an employee access to an area for any of the following reasons, but not limited to:
 - 1. Conviction of a felony.
 - 2. Conviction of a misdemeanor (not including traffic or parking violation).
 - 3. Any outstanding warrants (including traffic and parking violations).
 - 4. A person currently on parole or probation.
 - 5. A person currently involved in an investigation.

5.42. 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.

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.

5.43. 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.

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

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;
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 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.)
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;
 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;
 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;
 6. maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Agreement and applicable laws;
 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;
- B. If the 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:
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;
 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;
 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

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.

5.44. 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. 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:

- A. 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);
- B. act on newly acquired information whether or not such information should have been previously discovered;
- C. unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- D. 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.

6. DEFENSE AND INDEMNIFICATION

6.1. Professional Services

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 Contract. 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 Contract, 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 Contract.

7. INSURANCE REQUIREMENTS

7.1. Contractor's Insurance

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.

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.

7.2. 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.

7.3. Commercial General Liability – Occurrence Form

General Aggregate \$2,000,000
Products – Completed Operations Aggregate \$1,000,000
Personal and Advertising Injury \$1,000,000
Each Occurrence \$1,000,000

- A. 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.
- B. 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.
- C. City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- D. The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

7.4. 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

- A. Policy must contain a waiver of subrogation against the City of Phoenix.
- B. 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.

7.5. Technology Errors and Omissions Liability

Each Claim \$1,000,000
Annual Aggregate \$1,000,000

- A. The policy must cover errors and omissions or negligent acts in the delivery of products, services, and/or licensed programs for those services as defined in the Scope of Services of this Contract.
- B. Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

7.6. Network Security and Privacy Liability (required if Contractor has access to personal or confidential data)

Each Claim \$1,000,000
Annual Aggregate \$1,000,000

Policy must cover but not be limited to (1) coverage for third party claims and losses with respect to network risk and invasion of privacy (2) crisis management and third-party identity theft response costs and (3) cyber extortion.

Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

7.7. 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, or hand delivered to Phoenix Convention Center c/o Procurement Staff, 100 North Third Street, Floor 2A, Phoenix, Arizona 85004, or emailed to: cpz.procurement@phoenix.gov.,

7.8. 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.

7.9. 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.

All certificates required by this Contract must be sent directly to cpz.procurement@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete 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.**

7.10. 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.

7.11. Approval

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

8. SUBMITTALS

8.1. Copies

Please submit one electronic copy of the Submittal Section and all other required documentation.

Refer to “SUBMISSION OF OFFER” paragraph under the “SECTION I –INSTRUCTIONS” of this solicitation document.

Electronic Offer Submission via email: Submittal is to be submitted electronically via email to: doug.hayes@phoenix.gov and cpz.procurement@phoenix.gov.

The email subject line must include solicitation number and title. For example: RCS PCC 23-003 Neutral Host Distributed Antenna System

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 bid opening date and is irrevocable unless it is in the City’s best interest to do so.

8.2. Solicitation Response Check List

Use this check list as a tool to review your submission to ensure that all required documents and forms are included.

The written offer should be:

- A. Typewritten for ease of evaluation
- B. Signed by an authorized representative of the Offeror
- C. Submitted with contact information for the individual(s) authorized to negotiate with the City.

8.3. Offeror Submittal Format

Submitted with a table of contents and tabbed according to the following sections:

- Tab 1** Technical expertise and experience
- Tab 2** Operational efficiency
- Tab 3** Customer service
- Tab 4** Attachment A - Financial Return
- Tab 5** Attachment B - Submittal Section – completed and signed.
- Tab 6** Statement of Bonding Ability
- Tab 7** Signed Addenda

Offers must be in possession of the Department on or prior to the exact time and date indicated in the Schedule of Events. Late offers will not be considered. Electronic submission is preferred. Due to file size limitations for electronic transmission, offers sent by email may need to be sent in parts with multiple emails. It is the responsibility of the Offeror to ensure that the offer is received timely and that there are no technical reasons for delay. Please refer to the Instructions Section for complete information regarding the submission of offers.